

THE TAITA TAVETA COUNTY GOVERNMENT

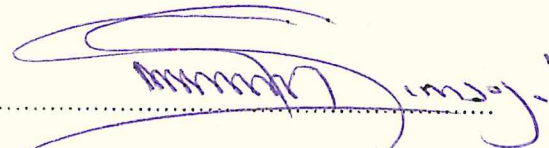
HIS EXCELLENCY THE GOVERNOR

GRANTON GRAHAM SAMBOJA

I assent

12/8/2020

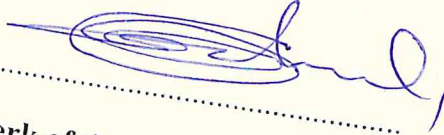
Date


Governor



AN ACT of County Assembly of Taita Taveta to protect the livestock owners from theft of Livestock and Livestock produce; to combat and investigate crimes concerning Livestock and Livestock produce; to monitor the movement of Livestock and Livestock produce within and through the borders of the County

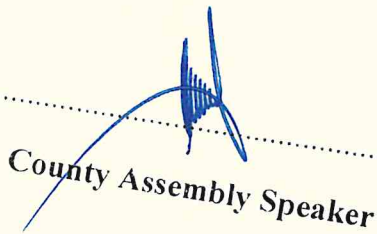
I certify that this printed impression is a true copy of the Bill passed by the County
Assembly on the 28TH (date) JULY (month), 2020



Clerk of the County Assembly



Presented for assent in accordance with the provision of the Constitution of Kenya and
County Governments Act on the 28TH at THE COUNTY ASSEMBLY the
(date) JULY, 2020
TUESDAY hour of 1537 HRS



County Assembly Speaker

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

**THE TAITA TAVETA COUNTY MOVEMENT AND
PROTECTION OF LIVESTOCK**

AND LIVESTOCK PRODUCE BILL, 2020

A Bill for

AN ACT of County Assembly of Taita Taveta to protect the livestock owners from the theft of Livestock and Livestock produce; to combat and investigate crimes concerning Livestock and Livestock produce; to monitor the movement of Livestock and Livestock produce within and through the borders of the County;

ENACTED by the County Assembly of Taita Taveta County, as follows—

ARRANGEMENT OF BILL

PART I — PRELIMINARY

1. Short title
2. Interpretation
3. Application of the Act

PART II— DEALING WITH LIVESTOCK AND LIVESTOCK PRODUCE

4. Movement and transport of Livestock and Livestock produce within and between counties
5. Public sale of Livestock and Livestock produce
6. Control over the movement of Livestock or Livestock produce
7. Movement of Animals
8. Grazing Lease Agreements.
9. Sub-leasing
10. Livestock Identification
11. Illegal Herding
12. Trespasser
13. Livestock holding areas
14. Documentation for authorization of removal
15. Acquiring Livestock or Livestock produce
16. Guideline on carrying capacity
17. Authorization from the owner of Livestock and Livestock produce to a person who controls or supervises it on behalf of the owner

PART III — DOCUMENTATION, REGISTERS AND RECORD KEEPING

18. Documents
19. Appointment of agent acting on behalf of owner
20. Search, seizure, disposal, forfeiture, damages and evidence

PART IV — PRESUMPTIONS

21. Failures to give a satisfactory account of the possession of Livestock or Livestock produce
22. Absence of reasonable grounds to presume that Livestock or Livestock produce have been acquired legally
23. Entering enclosed land, boma, shed, stable or other walled place where Livestock or Livestock produce are kept or stored
24. Offences, Penalties and Jurisdiction
25. Act applicable in all cases where the charge is one of theft of Livestock and Livestock produce
26. Conviction on a charge of theft of Livestock and Livestock produce
27. Penalties
28. Regulations

PART I — PRELIMINARY

Short title

1. This Act may be cited as the Taita Taveta County Movement and Protection of Livestock and Livestock Produce Act, 2020.

Interpretation

2. In this Act, unless the context otherwise requires—

- (i) “Holding ground” means a facility or piece of land where animals from other places assemble for a short period of time. In the facility are fed, watered, rested, identified and some limited veterinary intervention.
- (ii) “Acquire” means receive, obtain, temporary receives for purpose of sale and also any way in which ownership is not transferred;
- (iii) “Agent” means a person who Bills for others in negotiating or arranging contracts in respect of or purchases, sales, or the transfer of Livestock or Livestock produce in return for a fee, commission or other consideration and “broker” has a corresponding meaning;
- (iv) “Animals” also means Livestock
- (v) “Auction” public sale of property including livestock where the property is sold to the highest bidder and also means video auctions;
- (vi) “Carrying capacity” means the number of grazing animals the pasture will support year after year without destroying the land vegetation
- (vii) “CECM” means County Executive Committee Member in-charge of livestock.
- (viii) “Competent court” relevant court for the matters in the bill
- (ix) “Cutlines” refers to roads between or marking boundaries between different grazing areas or ranches.
- (x) “Fence” means any wire fence, or any other fence, wall or gate through which no Livestock could pass without breaking it, or any excavation through or across which no Livestock can pass or any natural boundary through or across which no Livestock would ordinarily pass;
- (xi) “Inter or intra county livestock movement” movement of livestock into or out of the county for the purposes of trade or breeding or other purposes.
- (xii) “Livestock produce” means whole or any part of skins, hides, Milk, horns, intestines, heads, parts of bones, claws, semen or embryos and any wool, mohair or ostrich feathers and ostrich eggs;
- (xiii) “Livestock” means domesticated animals raised in an agricultural including cattle, camel, sheep, goats, pigs, horse, rabbits, ass, poultry, mule, dogs and farmed game.
- (xiv) “Person” means natural and legal persons;
- (xv) “Possess” does not necessarily mean the physical ownership of Livestock and Livestock produce, but also the intent to deal with it on behalf of the owner, agent or principal, or to control it as such and also have stray Livestock on your property;
- (xvi) “Prescribed” means prescribed by regulation;

(xvii) "Public sale" means public auction on premises to which all members of the public normally have access, which is subject to the following provisions:

- a. that the sales transaction takes place on other days than Sundays or public holidays between 07:00 and 18:00 hours;
or
- b. in pursuance of an order issued by a competent court.

(xviii) "Regulation" means any regulation made or regarded as having been made under this Act;

(xix) "Re-possess" means to possess again after a suspension of possession.

(xx) "Stock routes" means roads or paths identified and gazetted by the CECM and well known for the movement of livestock.

(xxi) "Summon" means an order to a person to attend court.

(xxii) "This Bill" includes the regulations.

Application of the Act

3. (1) No person may possess, transport, handle, transfer, sell, purchase, acquire or supply Livestock and Livestock produce unless he or she is in possession of the prescribed documents and registers where applicable.
- (2) (a) The County Executive Committee Member may exempt in the *Gazette* a person from any or all provisions of this Act subject to regulations on exemptions.
(b) Any such exemption may be—
 - (i) general or specific;
 - (ii) for any time;
 - (iii) subject to any condition necessary to reach the objective of this Act
 - (iv) Changed or revoked at any time.
- (3) In giving exemptions, the CECM shall have regard to the applicant's scale of livestock keeping in terms of large and small scale livestock keeping.

PART II— DEALING WITH LIVESTOCK AND LIVESTOCK PRODUCE

Movement and transport of Livestock and Livestock produce within and between counties

4. (1) No person shall move Livestock or Livestock produce into or out of the County, or cause any Livestock or Livestock produce to be moved from the County, unless he or she is in possession of the prescribed documents and registers.
- (2) No person shall, between 6.00 pm and 6.00am, drive, carry or convey any Livestock or Livestock produce in any other way than in or on a vehicle unless the person is the owner, lessee or occupant of land where the Livestock or Livestock produce are driven, carried or conveyed over, unless otherwise prescribed.
- (3) No person shall, between sunset and sunrise, receive any Livestock or Livestock produce that have been driven, carried or conveyed in any other way than on or in a vehicle, unless otherwise prescribed.
- (4) Notwithstanding the provisions of any other Act, Livestock or Livestock produce within, crossing the border, out of or into Taita Taveta County must be identified with a permanent identification mark as is prescribed.

Public sale of Livestock and Livestock produce

5. (1) A person shall only deliver or sell Livestock, uncured raw meat, a carcass or portion of a carcass or unprocessed Livestock produce at designated points of sale to members of the public from a vehicle, container, road stall, structure or residence that are not registered business premises, if such a seller is in possession of his or her identity document or passport and other prescribed documents which shall be displayed on request.

- (2) The sale of Livestock, uncured raw meat, a carcass or portion of a carcass or unprocessed meat and Livestock produce shall be restricted to a specific area and time as prescribed.
- (3) Information of the transactions shall be reflected in a register as is prescribed.

Control over the movement of Livestock or Livestock produce

6. (1) A person who delivers Livestock or Livestock produce to a person to sell, process, barter, provide, give or dispose of in any other manner, shall, for the purposes of this section, be deemed to have disposed of those Livestock or Livestock produce, to such person.
- (2) A person who is not the owner of Livestock or Livestock produce shall not drive or transport Livestock or Livestock produce -
 - (a) by rail;
 - (b) on or along a public road; or
 - (c) Over land of which he or she is not the owner, lessee or occupier; unless he or she is in possession of owner(s) copy of identity document or passport and the prescribed document.
- (3) A person mentioned in subsection (1) shall also have a document not older than four days, in his or her possession, as is prescribed.
- (4) If the Livestock or Livestock produce are being transported in a vehicle, it is presumed that the driver of the vehicle is in possession of the Livestock or Livestock produce.
- (5) No person shall, if the Livestock or Livestock produce are to be driven or transported by rail, on or along a public road or land -
 - (a) receive Livestock or Livestock produce after it has been bought, bartered, provided, given or sold, if the original owner or agent of the Livestock or Livestock produce, did not provide a document in terms of this Act;
 - (b) Drive or transport Livestock or Livestock produce by rail or on a public road or land, unless the original owner or agent provides a document as is prescribed.
- (6) A person in possession of Livestock or Livestock produce shall at all times be in possession of his or her identity document and the prescribed documents which must accompany the Livestock or Livestock produce.
- (7) The movement of Livestock or Livestock produce may be restricted to a certain area, time and method with specific instructions to-
 - (a) transport contractors;
 - (b) owner of Livestock or Livestock produce; or
 - (c) Appointed agents.

Movement of Animals

7. (1) Pursuant to the Animal Diseases Act Cap 364 on issuance of movement permits and save for enforcement requirements under the same, movement of livestock on hoof, within and in transit in Taita- Taveta shall be along cut lines and stock routes.
- (2) No objection certificate shall be a requirement before animals are allowed into the county. No objection certificate shall be issued on condition that the recipient ranch or farm have confirmed in writing readiness to receive the animals. Such consent shall also indicate the number of animals allowed into the ranch or farm.
- (3) For the avoidance of doubt, a movement permit issued by another county without the no objection certificate from Taita Taveta County Government shall not constitute authority to move animals into the county.
- (4) The following shall be the conditions to be met before issuance of a movement permit; No objection certificate, cess payment receipt and consent of animal owner where the animal(s) to be moved have been purchased.
- (5) The County Executive Committee member shall prescribe designated cut lines and county stock routes as advised by the department in charge of livestock movement.
- (6) Failure to adhere to the prescribed routes/cut lines shall be an offence and will result in a fine as prescribed as in the finance bill.
- (7) Offloading and loading of animals within the county shall only be done at the designated livestock markets, loading and offloading ramps, at the ranch or farm where the animals are destined or originating from.
- (8) For the avoidance of doubt, there shall be no offloading and loading of animals along the road or highways and this shall be an offence
- (9) Any persons(s) committing any offence shall be liable to a fine of Kshs. 50,000 or 3 months in jail.

Grazing Lease Agreements.

8. (1) All persons intending to lease all or part of a ranch or farm for grazing for which they have no control over must first declare their intention in writing to the department responsible for livestock in the county.
- (2) Upon receiving the written declaration, the department shall advise the applicant on the ranch's carrying capacity based on the annual carrying capacity assessment.
- (3) The department responsible for livestock shall inform in writing the board of management of the ranch /farm their carrying capacity and the communication shall be copied to the rancher's umbrella body. The advice on the carrying capacity shall be binding to the ranch/farm.
- (4) All grazing lease agreements shall be reviewed and approved by the department responsible for livestock production before commitment by the parties concerned to ensure compliance with the carrying capacity.

- (5) It shall be an offence for any ranch/farm to stock or lease pastures above their carrying capacity.
- (6) Upon leasing pastures, the board of management of the ranch/farm shall furnish the department responsible for livestock in writing; the name, copy of the identification document, address of the lessee, the number of animals the lessee is allowed to graze on the ranch and the period for the lease.
- (7) The CECM in-charge of livestock shall be make regulations on appointment of authorized officers to carry-out the carrying capacity assessment and criteria of assessment of land carrying capacity; such officers shall be appointed in every sub-county to ease access to such services.
- (8) All land owners rearing livestock or leasing land for livestock rearing shall maintain a register of all herders involved in the livestock rearing and such register shall be availed to the county department responsible for livestock on demand. It shall be the responsibility of the land owner to ensure that such registers are up to date.
- (9) Existing grazing lease agreements shall be validated to ensure compliance with the provision of this part.

Sub-leasing

9. (1) There shall be no sub-leasing of grazing lease agreements.
- (2) Any person who sub-lets a grazing rights agreement shall be liable to a fine of Kshs. 100,000 as per the finance act
- (3) The ranches shall recover fees for the grazing rights from the owner of the livestock who had sub-let as per provisions of section 13(5).

Livestock identification

10. (1) All livestock within the county shall bear a permanent mark as prescribed in the Branding of Stock Act- Cap 357
- (2) The department responsible for livestock identification shall provide guidelines on the age at which animals are to be branded, frequency of branding, symbol or mark to be used when identifying animals in the county and such marks shall identify animals to the lowest possible administrative level. Such guidelines shall provide for measures to ensure animals coming into the county have identification marks and do not pose a risk of spreading diseases as per the provisions of the animal disease control act.
- (3) The owners of stock shall pay a fee for the identifying of their animals as prescribed in the county finance bill.

Illegal Herding

11. (1) Any livestock owner or his/her agent who grazes animals without a valid grazing lease agreement in areas where they would

otherwise require a grazing lease agreement shall be committing an offence.

(2) An illegal herder is:

(a) Any person found grazing within the county without a valid grazing lease agreement.

(b) Any person with a valid grazing lease agreement within the county, with livestock exceeding the agreed number under the lease agreement shall be an illegal herder for the excess number of cattle.

(3) Any person who enters into a lease agreement for grazing rights without the approval of the ranch management board of the ranch shall be committing an offence

(4) It shall be the duty of the land owner to ensure compliance with the correct stocking rate numbers of animals in the ranch. The land owner shall ensure that the number of animals being grazed are in compliance with the number in the lease agreement entered into with tenants.

(5) The ranch/farm shall recover fees for the grazing rights from the owner of the livestock being illegally herded as per provisions of section 15 (5).

(6) Illegal herders under sub-section (2) (a) and (b) above shall pay a fine of Kshs. 500,000 and shall be required to remove the animals within 48 hours. If the animals are not removed within 48 hours, they will be impounded and fines levied as per the Taita Taveta County Finance Act.

Trespasser

12. (1) Any person who drives his animals for purpose of grazing onto a ranch, national park or grazing area without permission. Such person shall commit an offence and shall be liable to a fine as prescribed by the Taita Taveta Finance Act.

(2) Any person who previously had a grazing permission but continues to graze on the ranch/ farm/grazing area beyond the allowed period.

(3) Such trespassing animals shall be impounded and the owner shall pay impounding and maintenance fees to the facilities where such animal are held before removing the animals.

(4) The provisions of section 13 (3), (4) and (6) shall apply to the trespassing animals.

Livestock holding areas

13. 1) the CECM in charge of livestock shall gazette all Livestock holding facilities in the County as livestock holding areas.

2) The CECM shall use the facilities to hold animals arrested within the County for illegal grazing.

3) The department shall recover the cost of impounding and maintaining such animals as prescribed by regulations in Sec 13(5).

- 4) The livestock impounded shall be held for a maximum of 7 days and animals not claimed by the owner shall be considered forfeited upon expiry of 7 days. Such animals shall be declared for auction.
- 5) The CECM in charge of livestock shall make regulations on the grazing rights, impounding and maintenance fees payable to the owner of the holding area. The fees chargeable shall be cognizant of the cost of maintenance of each livestock species and shall be reviewed from time to time.
- 6) The owners of impounded animals shall pay impounding and maintenance fees before removing their animals.
- 7) It shall be an offence to forcefully repossess animals held in the livestock holding areas and a fine of Kshs. 500,000 shall be charged as per the Finance Act.

Documentation for authorization of removal

14. 1) No person who is or was employed by an owner or occupier of any land shall remove any Livestock or Livestock produce owned by him or her or under his or her control from any land owned or occupied by such owner or occupier unless he or she is in possession of a document, furnished by such owner or occupier or the agent of such owner or occupier containing the following-
- a) date not more than seven days before the removal;
 - b) a description of the Livestock or Livestock produce; and
 - c) a certificate that to the best knowledge and belief of the person furnishing the document, the person identified, is entitled to remove the Livestock or Livestock produce on the specific date.
- 2) An owner or occupier of land, or an agent of such owner or occupier, shall, when requested to do so by a person as is referred to in subsection 1.
1. Shall forthwith furnish him or her with any document which he or she may require in terms of subsection (3).
 2. An owner, occupier or person who possess land who provide grazing, standing place or storage space shall-
 - a) provide the prescribed document to the owner of Livestock or Livestock produce who requests him or her for permission to remove the Livestock or Livestock produce from the land, without delay; and
 - b) Furnish the document in the prescribed manner.

Acquiring Livestock or Livestock produce

15. 1) No person may acquire or take into possession Livestock or Livestock produce in any manner or receive Livestock or Livestock produce for sale, processing, safekeeping or feeding them, from a person who does not have an identification document in his or her possession and a known address.
- 2) A person who is the owner of Livestock, or has Livestock or Livestock produce under his or her control or supervision and who trades with, receives or processes Livestock or Livestock produce must keep a document of the Livestock or Livestock produce as is prescribed.
- 3) A person who issues the prescribed document must certify that he or she knows the owner of the Livestock or Livestock produce and that the person who receives the document has the right to remove the Livestock or Livestock produce.
- 4) An owner, occupier or person who possess land who provides grazing, standing place or storage space shall –
 - a. provide the prescribed document to the owner of Livestock or Livestock produce who request him or her for permission to remove the Livestock or Livestock produce from the land, without delay; and
 - b. Furnish the documents in the prescribed manner.

Guideline on carrying capacity

16. 1) The Department of Livestock production shall maintain an updated guideline on the rangelands carrying capacity.
- 2) All ranches and communities with grazing areas shall adhere to the prescribed rangelands carrying capacities.
- 3) A person who fails to adhere to the prescribed carrying capacity shall attract a fine of Kshs. 50,000. The excess animal shall be removed within 3 months.

Authorization from the owner of Livestock and Livestock produce to a person who controls or supervises it on behalf of the owner

17. 1) No person may take control of or supervision over Livestock for grazing, safe keeping or treatment, or Livestock produce for safekeeping or treatment on land or premises of which he or she is the owner, lessee, occupier or supervisor, unless he or she is the owner of such Livestock or Livestock produce and in possession of the prescribed document
- 2) The owner of the Livestock or Livestock produce must provide prescribed documents to the person who has supervision or control over the Livestock or Livestock produce when the person takes possession of such Livestock or Livestock produce.
- 3) A person who, for the purpose of grazing, feeding, safekeeping or treatment, transfers Livestock or Livestock produce, must furnish the owner, lessee, occupier or supervisor of Livestock or Livestock produce, with the prescribed documents.

PART III — DOCUMENTATION, REGISTERS AND RECORD KEEPING

Documents

18. 1) The owner or possessor of the Livestock must keep a Livestock register as is prescribed.
- 2) A person selling, buying, transporting, handling, transferring or supplying Livestock or Livestock produce within the County must ensure that—
- a) the identity of a person acquiring any Livestock or Livestock produce is verified;
 - b) documents and registers are compiled with the information as is prescribed;
 - c) the said documents and registers are kept by the transferee;
 - d) copies of the said documents and registers are handed over to the recipient;
 - e) the said documents, and the copies thereof are kept for at least three years; and
 - f) the registers are kept for at least 3 (three) years after the date of the last entry.
- 3) It is an offence for a person in possession of Livestock or Livestock produce to be in possession of insufficient or no documents and registers.
- 4) The provisions of subsections (2) and (3) are not applicable in the case of Livestock or Livestock produce driven or transported by the owner, or his or her employee of such Livestock or Livestock produce on or along a part of a public road that crosses land belonging to the owner, occupier, or lessee, or his or her agent.

Appointment of agent acting on behalf of owner

19. 1) A person billing as an agent on behalf of an owner of Livestock or Livestock produce must have a valid document issued by the owner of Livestock or Livestock produce or verify by the county department in charge of Livestock in the format as is prescribed.
- 2) The person issuing the document must certify that he or she gives the agent a mandate to take part in trade on his or her behalf.

Search, seizure, disposal, forfeiture, damages and evidence

20. 1) A police or authorized county official may without a warrant
- a) search the person in control of the Livestock or Livestock produce or any object referred to in section 21;
 - b) investigate and determine the identification of the Livestock or Livestock produce;
 - c) search and investigate the means of transport and container used at any time to obtain greater clarity about the origin and destination of the Livestock and Livestock produce;

- d) demand that the owner or person who is taking the Livestock or Livestock produce across the county border, present documentation as is prescribed;
 - e) take photographs of Livestock or Livestock produce, obtain nose prints or other prints, obtain hair and skin samples, scrapings or blood samples of Livestock or Livestock produce;
 - f) mark Livestock or Livestock produce for purposes of identification by means of brand marks, tattoos, paint marks or any electronic means of identification;
 - g) seal any vehicle, vessel, aircraft or container with an official seal which can be broken by a police official; and
 - h) seize any Livestock, Livestock produce, vehicle, vessel, aircraft or arrest a person taking Livestock or Livestock produce across the County if there is a reasonable suspicion that the Livestock or Livestock produce are not lawfully in the person's possession.
- 2) A police official may without a warrant, and without a person being arrested, take fingerprints, palm prints, footprints, clothes and bodily samples of a person or group of persons or may cause any such prints or samples to be taken if there are reasonable grounds to-
 - a) suspect that a person or more of the persons in the group have committed an offence in terms of this Act; and
 - b) Believe that the prints or samples or the results of an examination thereof, will be of value in the investigation by excluding or including one or more of the persons as possible perpetrators of the offence.
 - 3) The veterinary officer who has control over prints or samples taken in terms of this section-
 - a) may examine them for the purposes of the investigation of the relevant offence or cause them to be so examined; and
 - b) Must immediately destroy them when it is clear that they will not be of value as evidence.
 - 4) Bodily samples to be taken from the body of a person may only be taken by a registered medical practitioner or registered nurse.
 - 5) A police or county official may do such test, or cause such tests to be done, as may be necessary to determine whether a person suspected of having committed an offence in terms of this Act, has committed such an offence.
 - 6) Veterinary Officer may take photographs of Livestock or Livestock produce, obtain nose prints or other prints, and obtain hair and skin samples, scrapings or blood samples of Livestock or livestock produce.
 - 7) Whenever any authorized county official or police officer, or owner, lessee or occupier of land reasonably suspects that a person has in or under any container or covering or in or upon any vehicle any Livestock or Livestock produce in regard to which an offence has been committed, such authorized county official or police officer, owner, lessee or

occupier may without warrant, search such container or vehicle and remove such covering, and if he or she thereupon find any Livestock or Livestock produce in regard to which he or she reasonably suspects an offence to have been committed, he or she may without a warrant arrest such person and seize such vehicle or container and shall as soon as possible convey such person and the Livestock or Livestock produce so found, and the vehicle or container so seized, to the nearest police station with the necessary facilities.

- 8) An authorized county official or police officer or someone who is appointed as is prescribed, may within the three years, demand an inspection of the Livestock register, and upon such demand, the person having possession of such register shall produce it for inspection to the person making the demand.

PART IV — PRESUMPTIONS

Failures to give a satisfactory account of the possession of Livestock or Livestock produce

21. 1) A person found with Livestock or Livestock produce in his or her possession or control which do not have registered identification marks, and who is unable to give a satisfactory account of such possession shall be guilty of an offence, on condition that the burden of proof rests on the County to prove that the account given is unsatisfactory.
- 2) A person found amongst or having control over Livestock who is unable to give a satisfactory account of his or her presence there, is guilty of an offence on condition that the burden of proof rests on the County to prove that the account given is unsatisfactory.

Absence of reasonable grounds to presume that Livestock or Livestock produce have been acquired legally

22. 1) A person who in any manner, otherwise than at a public sale, acquires or receives into his or her possession from any other person stolen Livestock or stolen Livestock produce without having reasonable cause, proof of which shall be on such first mentioned person, for believing, at the time of such acquisition or receipt, that such Livestock or Livestock produce is the property of the person from whom he or she acquires or receives it or that such person has been duly authorized by the owner thereof to deal with it or dispose of it, shall be guilty of an offence.
- 2) In the absence of evidence to the contrary which raises reasonable doubt, proof of possession as contemplated in subsection (1) shall be sufficient evidence of the absence of reasonable cause.

Entering enclosed land, boma, shed, stable or other walled place where Livestock or Livestock produce are kept or stored

23. 1) A person authorized to supervise and be in charge of Livestock or Livestock produce which are on land which has sufficient fences on all sides, a boma, shed, stable or other walled places where Livestock or Livestock produce are kept or stored, may ask a person who enters or leaves the land, boma, shed, stable or other walled place to-
- a) provide his or her name, surname, address and proof of identity by means of his or her identity document or passport;
 - b) declare what he or she has in his or her possession;
 - c) declare and exhibit the contents of any vehicle or container of any kind which he or she has in his or her possession;
 - d) allow his or her vehicle or container under his or her control to be searched;
 - e) must submit himself or herself to a search; and
 - f) comply with a lawful condition or command from the owner, lessee, occupier or authorized person.
- 2) If a person has to move or open a gate or fence, climb, crawl or walk over, under or through a fence to gain access to land, boma, shed, stable or other walled place, such person is considered as trespassing on that land, boma, and shed, stable or other walled place.
- 3) An authorized county official or police officer, owner of land or his designee and persons under his or her direct command or a person as prescribed, can enter the land, boma, shed, stable or other walled place without the permission of the owner, lessee, and occupier or authorized person—
- a) as part of his or her duties; and
 - b) Must display his or her appointment certificate or authorization if asked to do so.
- 4) No person may without the permission of the owner, lessee, occupier or authorized person enter or trespass land with sufficient fences, boma, shed, stable or other walled place.

Offences, Penalties and Jurisdiction

24. 1. It is an offence to contravene or fail to comply with any-
- a) provision of this Act;
 - b) condition of a document or registers or authorization issued or granted by or under this Act;
 - c) provision, direction or requirement under this Act.
2. It is an offence to—
- (a) willfully obstruct or hinder a police officer and county official in the exercise of the powers conferred upon him or her or in the duties assigned to him or her in terms of this Act.
 - (b) disobey any lawful order of a police and county official whether verbal or in writing; or

- (c) willfully give false information to a police and county official.

Act applicable in all cases where the charge is one of theft of Livestock and Livestock produce.

25. The provisions of this Act is applicable in all cases where an accused is charged or summoned with regard to theft of Livestock or Livestock produce, notwithstanding the fact this Act is not mentioned in the charge or summon.

Conviction on a charge of theft of Livestock and Livestock produce

26. A person charged with the theft of Livestock or Livestock produce can be found guilty of—
- a) theft or attempted theft of such Livestock or Livestock produce;
 - b) maiming Livestock during the theft or attempt of theft of Livestock;
 - c) receipt, transfer or possession of such Livestock or Livestock produce;
 - d) provoking, inciting, persuasion to—
 - i. steal such Livestock or Livestock produce;
 - ii. receive such Livestock or Livestock produce;
 - iii. maim Livestock; or
 - e) that he or she received the stolen Livestock or Livestock produce, knowing that it was stolen, disposed thereof or that he or she assisted in the disposing thereof;
 - f) a contravention of section 10 or 11.

Penalties

27. 1) Notwithstanding any other law, a court of competent authority shall in respect of a person who has been convicted of an offence referred to in—
- a) section 8(1), 9(1) and 10(1), 13 (1) (2), (3), (4), (5), and (6) and sentence the person, in the case of—
 - (i) a first offender, to imprisonment for a period not less than 10 years;
 - (ii) a second offender of any such an offence, to imprisonment for a period not less than 15 years;
 - (iii) a third or subsequent offender of any such offence, to imprisonment for a period not less than 20 years.
 - b) Section 4(1), (2), (3) and (4), 5(1), (2) and (3), 6(1) and (2), 7(1), (2), (3), and 8(1), (2), (3), (4), and (6), and 9(1) and (2), 12(1) and (2) a fine not exceeding Ksh. 100,000 or both such fine and imprisonment for a period not exceeding 10 (ten years).

Regulations

28. The County Executive Committee Member may make regulations regarding—

- a) Guidelines on identifying small and large scale livestock keepers/ grazers
- b) Exemptions of the provisions of this act
- c) anything which may or must be prescribed in terms of this Act;
 - a. any matter pertaining to record keeping;
- d) any other matter which must be regulated for the legal movement of Livestock or Livestock produce for the achievement of the objects of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The main purpose of this bill is to put in place a legal frame work for the protection of the livestock owners from theft of Livestock and Livestock produce; to combat and investigate crimes concerning Livestock and Livestock produce; to monitor the movement of Livestock and Livestock produce within and through the borders of Taita Taveta County;

Part I — deals with preliminary provisions such as the short title commencement, interpretation and application of the Act

Part II— deals with matters movement and transport of Livestock and Livestock produce in and out, it also deals with the manner in which Public sale of Livestock and Livestock produce shall be conducted.

Part III — Provides for documentation, registers and record keeping, it also prescribes the procedures to be followed when appointing an agent to act on behalf of the owner of the livestock or livestock produce. It further provides for instances when Search, seizure, disposal, forfeiture, damages and evidence shall be declared

Part IV—Outlines presumptions and defines Offences, Penalties and Jurisdiction

Dated the 28th July, 2020

JUSTINE MWAMBA,
Chairperson, Committee on Agriculture, Livestock & Fisheries