



Queensland

# Cattle Stealing Prevention Act 1853

Reprinted as in force on 15 March 1996

Reprint No. 1\*

This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy

\* Minor differences in presentation between this reprint and another reprint with the same number are due to the conversion to new styles. The content has not changed.

# Information about this reprint

This Act is reprinted as at 15 March 1996. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- update references (pt 4, div 3)
- express gender specific provisions in a way consistent with current drafting practice (s 24)
- use standard punctuation consistent with current drafting practice (s 27)
- use expressions consistent with current drafting practice (s 29)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (s 39)
- omit unnecessary referential words (s 41)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43).

This page is specific to this reprint. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
  - **table of changed names and titles**
  - **table of obsolete and redundant provisions**
  - **table of renumbered provisions.**

## Spelling

The spelling of certain words or phrases may be inconsistent with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’).



Queensland

# Cattle Stealing Prevention Act 1853

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# Cattle Stealing Prevention Act 1853

[as amended by all amendments that commenced on or before 15 March 1996]

## An Act for the better prevention of cattle stealing and the sale of stolen cattle

### 2 Construction of terms

In this Act—

*cattle* includes horses, mares, fillies, foals, geldings, colts, bulls, bullocks, cows, heifers, steers, calves, sheep, lambs, goats, pigs, mules, and asses.

*vendor* means the auctioneer or other agent of such vendor, as well as such vendor.

### 3 Restitution of stolen cattle may be awarded

- (1) Any justice of the peace, upon complaint or information on oath that any cattle suspected to have been stolen is in the possession of any person, may issue a summons to such person, requiring the person to appear at a time and place mentioned in such summons, before any 2 justices of the peace; or, in the discretion of such justice, may issue a warrant in the first instance to apprehend and bring such person, at a time a place mentioned in such warrant, before any 2 justices of the peace; and also, if such justice shall think fit, may issue the justice's warrant to any police officer, commanding the police officer to seize any such cattle suspected to have been stolen, and detain the same until such information or complaint shall have been disposed of.
- (2) And if, on the appearance of such person so summoned or apprehended, or on proof of the service of such summons personally, or by leaving the same at the usual or last-known

[s 4]

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place of abode of such person, 2 days before the person was required to appear, it shall seem to such justices, after hearing evidence on oath or affirmation that such cattle were stolen within the period of 1 year preceding from the person making complaint or laying the information, it shall be lawful for such justices to adjudge that person to be the owner of such cattle, and to issue a signed warrant, to any police officer of the State, commanding the police officer forthwith to seize such cattle, wheresoever the same may be found, and to restore and give peaceable possession thereof to the person so adjudged to be the owner, as aforesaid.

- (3) However, nothing herein contained shall be construed or taken to discharge any person from any criminal prosecution for a crime to be afterwards brought against such person, or to prevent the justices committing such person for trial, or to deprive any person of any right he or she may have, or might have had before the passing hereof.

#### **4 Vendee who delivers cattle, or pays back sum received, may recover from vendee's vendor**

- (1) Any person from whom or from whose possession any cattle shall have been taken, under any such warrant as last aforesaid, may recover from the person's vendor the amount paid by the person as the purchase money of such cattle; and any vendor of such cattle who may repay or be compelled to repay the purchase money the vendor may have received for such cattle, may in like manner recover back from his or her vendor the amount he or she may have paid such lastmentioned vendor as the purchase money of such cattle.
- (2) And it shall be lawful for any justice of the peace, upon complaint on oath made by any such person or vendor as aforesaid, or any person on the person's or vendor's behalf, that such person or vendor has paid for such cattle, and that such cattle have been taken from him or her, or that he or she, has paid or been compelled to repay the amount he or she received to summon the party selling to such lastmentioned person or vendor to appear before any 2 justices of the peace, or to issue the justice's warrant for the apprehension of such party selling, and upon the party's appearance, or in default

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thereof, upon proof of the due service of such summons, such justices are hereby empowered to examine the parties, or either of them, and their respective witnesses, (if there be any) upon oath, touching the purchase and payment of the amount of the purchase money for such cattle, and the restitution of the cattle purchased by such complainant or the repayment of the sum received by him or her, and to make such order for the repayment of that amount, with the costs incurred in the recovery thereof, as shall to such justices appear reasonable.

- (3) And in case such amount shall not be paid forthwith, or at the time to be appointed by such justices, the same shall be levied by distress and sale of the goods and chattels of the party on whom such order for payment shall be made, and if such distress can not be made, or shall prove insufficient, such justices are hereby empowered to cause the party upon whom the order shall be made, to be apprehended and committed to any gaol or house of correction, there to remain for any period not exceeding 3 months unless payment of the said amount, and of all costs and expenses attending the recovery thereof, shall be sooner made.
- (4) However, the execution of such order shall be stayed for such time as such justices may order, if the person from whom or from whose possession such cattle may have been taken, or on whom such order for payment shall be made, shall forthwith enter into a bond to the complainant, with 2 sufficient sureties to the satisfaction of such justices, and in such amount as they may think reasonable, conditioned to prosecute to conviction, within the time aforesaid, the person guilty of having stolen such cattle, and such conviction within the time aforesaid, shall supersede the order so made by such justices as aforesaid, and no subsequent proceedings shall be had thereon or upon the said bond.
- (5) In addition, it shall be lawful for such justices, on the application of such party and notice to the said complainant, to extend the time aforesaid.

## **9 Nonpayment of penalty**

Upon nonpayment of any fine, forfeiture, or penalty, under this Act, either immediately or within such period after the conviction as such justices at the time of such conviction shall appoint, and where no mode of proceeding is hereby prescribed, such justices shall commit such offender to any gaol or house of correction in the State, for any period not exceeding 3 months, where the sum remaining unpaid shall not exceed \$20; 4 months where the said sum shall exceed \$20 and not exceed \$40; and 6 months where the said sum shall exceed \$40, unless the said sum shall be sooner paid.

## **10 Proceedings in a summary way**

- (1) All proceedings under this Act for the recovery of penalties or forfeitures shall be had and taken in a summary way, and where not otherwise provided for, may be carried on in the manner directed by an Act of Parliament passed in the session of the 11th and 12th years of the reign of Her Majesty Queen Victoria, intituled 'An Act to facilitate the performance of the duties of justices of the peace out of sessions, within England and Wales with respect to summary convictions and orders', or according to the law in force for the time being, regulating summary proceedings before justices of the peace out of sessions.
- (2) And no information in writing shall be necessary previous to the issuing a summons.

### **Want of form, no certiorari**

- (3) And no information, summons, warrant, conviction, commitment, or other proceeding before or by any justices of the peace, for any offence under this Act, shall be quashed, or set aside, or judged void or insufficient for want of form, or be removed by certiorari, or otherwise, into Her Majesty's Supreme Court.
- (4) And in any information, summons, warrant, conviction, commitment, or other proceeding, for any offence under this Act, it shall be sufficient if the offence be stated in the words thereof declaring the offence.

**Informer a competent witness**

- (5) And in all proceedings under this Act the informer or party prosecuting shall be deemed a competent witness.
- (6) And it shall be lawful for the justices to amend any proceedings before them on such terms as they shall think fit.

## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 15 March 1996. Future amendments of the Cattle Stealing Prevention Act 1853 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1908 Edw 7 Act No. 18	23 December 1908	15 March 1996

### 5 List of legislation

#### **Cattle Stealing Prevention Act 1853 17 Vic No. 3 (NSW)**

date of assent 4 July 1853

commenced on date of assent

amending legislation—

#### **Criminal Code Act 1899 63 Vic No. 9 s 3(2) sch 3**

date of assent 28 November 1899

commenced 1 January 1901 (see s 2)

**Acts Citation Act 1903 3 Edw 7 No. 10 s 8(1) sch 1 (prev Acts Shortening Act Amendment Act 1903)**

date of assent 13 November 1903  
commenced on date of assent

**Statute Law Revision Act 1908 8 Edw 7 No. 18 s 2 sch 1**

date of assent 23 December 1908  
commenced on date of assent

## 6 List of annotations

Note—The short title was given to this Act by the Acts Citation Act 1903 s 8(1) sch 1.

**Preamble** om 1908 8 Edw 7 No. 18 s 2 sch 1

**Repeal of 14 Vic., No. 14**

s 1 om 1908 8 Edw 7 No. 18 s 2 sch 1

**Penalty for possession of carcass of stolen cattle**

s 5 om 1899 63 Vic No. 9 s 3(2) sch 3

**Penalty for working another person's cattle**

s 6 om 1899 63 Vic No. 9 s 3(2) sch 3

**Bar to further proceedings**

s 7 om 1899 63 Vic No. 9 s 3(2) sch 3

**Cases of felony**

s 8 om 1899 63 Vic No. 9 s 3(2) sch 3

**Actions against Justices**

s 11 om 1899 63 Vic No. 9 s 3(2) sch 3

## 7 Table of changed names and titles

under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
colony	State	see Commonwealth Constitution
constable	police officer	Police Service Administration Act 1990 s 11.1(1)(c) (see also s 1.4)
felony	crime	Criminal Code Act 1899 s 4(a)

## 8 Table of obsolete and redundant provisions

under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
(imprisonment) with hard labour	Corrective Services Act 1988 s 9(a)
(imprisonment) without hard labour	Corrective Services Act 1988 s 9(a)
references to Queensland implied	Acts Interpretation Act 1954 s 35

## 9 Table of renumbered provisions

under the Reprints Act 1992 s 43

Previous	Renumbered as
3, 1st provision . . . . .	3(1)
3, 2nd provision . . . . .	3(2)
3, proviso . . . . .	3(3)
4, 1st provision . . . . .	4(1)
4, 2nd provision . . . . .	4(2)
4, 3rd provision . . . . .	4(3)
4, 1st proviso . . . . .	4(4)
4, 2nd proviso . . . . .	4(5)
10, 1st provision . . . . .	10(1)
10, 2nd provision . . . . .	10(2)
10, 3rd provision . . . . .	10(3)
10, 4th provision . . . . .	10(4)
10, 5th provision . . . . .	10(5)
10, 6th provision . . . . .	10(6)