

Zambia

## Animal Identification and Traceability Act, 2024

### Act 2 of 2024

Legislation as at 18 April 2024

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Animal Identification and Traceability Act, 2024 (Act 2 of 2024)

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## Zambia

# Animal Identification and Traceability Act, 2024

## Act 2 of 2024

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**Assented to on 16 April 2024**

**Not commenced**

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## ACT

**An Act to establish the Animal Identification and Traceability Unit and provide for its functions; provide for an animal identification and traceability system; provide for the registration of animal identification marks and agents; provide for the traceability of animals, animal products and animal by-products; repeal and replace the Animal Identification Act, 2010; and provide for matters connected with, or incidental to, the foregoing.**

ENACTED by the Parliament of Zambia

### Part I – Preliminary provisions

#### 1. Short title and commencement

This Act may be cited as the Animal Identification and Traceability Act, 2024, and shall come into operation on a date the Minister may appoint, by statutory instrument.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

“**agent**” means an animal identification and traceability agent registered under section 32;

“**agent certificate**” means the agent certificate issued under section 32;

“**animal**” means a mammal other than a human being, and includes a bird, bee, fish and other aquatic animals, reptile, amphibian, snail and the carcass of such animals;

“**animal by-product**” means any material harvested or derived from an animal or product of animal origin not intended for human consumption;

“**animal identification**” means the identification and registration of an animal individually with a unique animal identification mark or collectively by its group with a unique animal identification mark;

“**animal identification mark**” means an animal identification mark registered under this Act for the purpose of identifying and tracing an animal, animal product, or animal by-product;

“**animal identification mark certificate**” means the animal identification mark certificate issued under section 21 and includes a special animal identification mark issued under section 22;

“**animal identifying device**” means a device or other mechanism that—

- (a) is attached or applied to, or implanted or located within, an animal; and
- (b) contains an animal identification mark, and other information;

“**animal product**” means meat, meat product or product of animal origin for human consumption, and includes an embryo, ova, semen, blood, bone or bone meal, hide, skin, horn, fat, honey, unprocessed wool and feathers;

“**animal product identification**” means a method of identifying an animal product or animal by-product using methods approved by the Traceability Officer;

“**disease control zonal mark**” means a Government animal identification mark for identifying animals in a particular area based on the disease status of the area;

“**Department of National Parks and Wildlife**” means the Department of National Parks and Wildlife established under the Zambia Wildlife Act, 2015;

*[Act No. 14 of 2015]*

“**Director**” means the Director responsible for veterinary services in the ministry responsible for livestock;

“**law enforcement officer**” means—

- (a) a police officer;
- (b) an officer of the Zambia Revenue Authority;
- (c) an immigration officer;
- (d) an officer of the Defence Force;
- (e) an intelligence officer of the Zambia Security Intelligence Service;
- (f) an officer of the Drug Enforcement Commission;
- (g) an officer of the Zambia Correctional Service;
- (h) an officer of the Anti-Corruption Commission;
- (i) an officer of the Department of National Parks and Wildlife;
- (j) an officer of the Financial Intelligence Centre; or
- (k) any other person the Minister may, by statutory instrument, appoint;

“**legally disqualified**” means the absence of legal capacity as provided in section 4 of the Mental Health Act, 2019;

*[Act No.6 of 2019]*

“**local authority**” has the meaning assigned to the words in the Constitution;

“**operate**” means to breed, rear or manage animals, carry on the business of an abattoir, process, sell, store, distribute, import or export, market or exhibit animal, animal products or animal by-products and the word “operator” shall be construed accordingly;

*[Cap. 1]*

“**premises certificate**” means the premises certificate issued under section 20;

“**repealed Act**” means the Animal Identification Act, 2010;

*[Act No. 28 of 2010]*

“**special animal identification mark**” means a customised animal identification mark issued under section 22;

“**traceability**”, in the case of—

- (a) a live animal, means the ability to follow an animal or group of animals during all stages of its life; and

- (b) an animal product or animal by-product, means the ability to follow the animal product or animal by-product across the entire animal value chain;

“**tribunal**” means an *ad hoc* tribunal constituted by the Minister under section 41;

“**Traceability Officer**” means the person appointed as the Traceability Officer under section 6; and

“**Unit**” means the Animal Identification and Traceability Unit established under section 4.

### 3. Application

This Act applies to animals, animal products, animal by-products, areas and persons declared by the Minister by notice in the *Gazette*.

## Part II – The Animal Identification and Traceability Unit

### 4. Establishment of Animal Identification and Traceability Unit

- (1) There is established in the ministry responsible for livestock the Animal Identification and Traceability Unit which shall be responsible for the implementation of the provisions of this Act.
- (2) The Unit shall be under the department responsible for veterinary services in the ministry responsible for livestock.
- (3) The Unit shall, under the general direction of the department responsible for veterinary services in the ministry responsible for livestock, collaborate with other Government agencies, local authorities, traditional authorities and the private sector in the implementation of this Act.

### 5. Functions of Unit

Subject to the other provisions of this Act, the functions of the Unit are to—

- (a) design, develop and manage an animal identification and traceability system for the Republic;
- (b) register animals;
- (c) issue premises certificates, animal identification mark certificates and agent certificates;
- (d) develop and issue animal identification marks for the purpose of identification and traceability of animals, animal products and animal by-products;
- (e) develop, maintain and manage a database and information system of premises issued with premises certificate and registered animals under this Act;
- (f) coordinate with other Government agencies on the identification and traceability of animals, animal products and animal by-products;
- (g) issue operational guidelines and standards of operating procedures on identification and traceability of agents, traders, owners of animals, animals, animal products and animal by-products;
- (h) liaise and collaborate with regional and international organisations on matters relating to the identification, registration and traceability of animals, animal products and animal by-products;
- (i) provide training programmes and capacity building to local authorities in coordinating and supervising the implementation of the provisions of this Act; and
- (j) perform any other functions conferred on the Unit under this Act.

## 6. Traceability Officer and other staff

- (1) The Civil Service Commission shall appoint, as public officers, a Traceability Officer, Assistant Traceability Officers and other staff as may be necessary for the performance of the functions of the Unit.
- (2) The Traceability Officer shall be responsible for the day-to-day administration of the Unit, under the general and special directions of the Director.
- (3) The Traceability Officer may, subject to the other provisions of this Act, and to the general or special directions of the Director, delegate in writing, any of the Traceability Officer's functions to an Assistant Traceability Officer or other member of staff of the Unit.
- (4) Despite subsection (3), the Traceability Officer may delegate any of the Traceability Officer's functions to an agent as prescribed.

## 7. Powers of Traceability Officer

- (1) The Traceability Officer may, for the purpose of enforcing the provisions of this Act, at any reasonable time, without prior notice, enter any premises or transport vessel that the Unit has reasonable grounds to believe is used for the commission of an offence or contrary to the provisions of this Act, and—
  - (a) search the premises or transport vessel where an animal identifying device may be found, or where an animal, animal product or animal by-product, may be found or processed for the purposes of inspection and data collection;
  - (b) open and examine any container, package or transport vessel suspected to contain an animal, animal product, animal by-product, animal identifying device, certificate or document so as to ensure compliance with the Act;
  - (c) inspect an animal, animal product or animal by-product destined for import into, or export from, the Republic to determine whether the consignment complies with the provisions of the Act;
  - (d) remove part of an animal, animal product or animal by-product in order to facilitate the examination of the animal, animal product or animal by-product for purposes of identification and tracing;
  - (e) search any person on the premises or transport vessel if the Traceability Officer has reasonable grounds to believe that the person has possession of an article, document or record that has a bearing on an inspection or investigation, except that a person shall only be searched by a person of the same sex;
  - (f) take extracts from, or make copies of, any book, document or record that is on the premises or transport vessel that has a bearing on an inspection or investigation;
  - (g) detain an animal, animal product, animal by-product, animal identifying device, transport vessel, certificate or document in respect of which this Act applies for a period until investigations or court proceedings in respect of which they are detained are concluded at the expense of the owner or that owner's representative;
  - (h) demand the production of, and inspect, relevant certificates;
  - (i) seize an animal, animal product, animal by-product, animal identifying device, certificate or document that the Traceability Officer has reasonable grounds to believe has been used to contravene this Act; or
  - (j) make inquiries that may be necessary to ascertain whether the provisions of this Act or any other law on which an inspection or investigation is based, have been complied with.

- (2) The Traceability Officer may, in the performance of the Traceability Officer's functions under this section, be accompanied and assisted by a law enforcement officer.
- (3) A Traceability Officer who removes anything from any premises or transport vessel shall—
  - (a) issue a receipt for anything removed to the owner or the person in control of the premises, or transport vessel; and
  - (b) return anything removed as soon as practicable after the thing removed has served the purpose for which it was removed.
- (4) A person commits an offence if that person—
  - (a) delays or obstructs the Traceability Officer in the performance of the Traceability Officer's functions under this Act;
  - (b) refuses to give the Traceability Officer reasonable assistance as the officer may require for the purpose of performing the Unit's functions;
  - (c) impersonates the Traceability Officer or presents oneself to be an officer from the Unit; or
  - (d) willfully gives the Traceability Officer false or misleading information in answer to an inquiry made by the Traceability Officer.
- (5) A person who contravenes subsection (4) is liable, on conviction, to a fine not exceeding sixty thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

## 8. Restoration of property

- (1) The Traceability Officer shall, where a person from whom an animal, animal product, animal by-product or animal identifying device, certificate or document has been seized under this Act is found not guilty or the proceedings against that person are withdrawn—
  - (a) without unnecessary delay, restore the animal, animal product, animal by-product, animal identifying device, certificate or document to that person; or
  - (b) where the Traceability Officer is satisfied that the person cannot be found or is unwilling to receive back the article or property, apply to the court for an order of forfeiture of the animal, animal product, animal by-product or animal identifying device, certificate or document.

*[Act No.19 of 2010]*

- (2) Subject to the Forfeiture of Proceeds of Crime Act, 2010, the court shall make an order of forfeiture under subsection (1) if—
  - (a) the Traceability Officer has given notice, by publication in the *Gazette* and in a daily newspaper of general circulation in the Republic, to the effect that the animal, animal product, animal by-product, animal identifying device, certificate or document which has been seized under this Act shall vest in the State if it is not claimed within three months from the date of publication of the notice; and
  - (b) three months after the giving of the notice under paragraph (a), the animal, animal product, animal by-product, animal identifying device, certificate or document remains unclaimed.
- (3) Where a claim is made, in writing, by any person that is lawfully entitled to the animal, animal product, animal by-product, animal identifying device, certificate or document seized under this Act, that the animal, animal product, animal by-product, animal identifying device, certificate or document is not liable to forfeiture under this Act, the Traceability Officer may order the release of the animal, animal product, animal by-product, animal identifying device, certificate or document to the claimant if satisfied that there is no dispute concerning the ownership of the animal, animal product, animal by-product, animal identifying device, certificate or document and that it is not liable to forfeiture.



- (4) The Traceability Officer shall refer a claim to the court where a claim of ownership is made in relation to the animal, animal product, animal by-product, animal identifying device, certificate or document seized under this Act and the Traceability Officer finds that—
- (a) there is a dispute regarding the ownership of the animal, animal product, animal by-product, animal identifying device, certificate or document;
  - (b) there is insufficient evidence to determine the ownership of the animal, animal by-product, animal identifying device, certificate or document; or
  - (c) the Traceability Officer is unable to ascertain whether the animal, animal product, animal by-product or animal identifying device, certificate document is liable to forfeiture or not.

## 9. Immunity

An action shall not lie against an officer of the Unit or a law enforcement officer, in respect of any act done by the officer or law enforcement officer in good faith and without negligence in the execution of the powers vested in the officer or law enforcement officer under this Act.

## Part III – Animal identification and traceability system

### 10. Components of animal identification and traceability system

- (1) The animal identification and traceability system designed, developed and managed in accordance with section 5(a) shall consist of the following components:
- (a) registration of animal identification marks;
  - (b) maintenance of premises records;
  - (c) issuance of animal identification marks and traceability of animals; and
  - (d) other mechanisms that facilitate animal identification and traceability.
- (2) The Unit may develop different guidelines for identification and traceability systems for different animal species, animal products, animal by-products, premises, areas and establishments.

### 11. Prohibition of dealing in unidentified animal, animal product or animal by-product

- (1) A person shall not—
- (a) sell, move, or present for slaughter or any other purpose, an animal that is not identified in accordance with this Act;
  - (b) sell, move, or present for another purpose, an animal product or animal by-product that is not identified in accordance with this Act;
  - (c) process an animal, animal product or animal by-product that is not identified in accordance with this Act; or
  - (d) exhibit, store, distribute, import or export, or market an animal, animal product or animal by-product that is not identified in accordance with this Act.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine of not less than seventy five thousand penalty units but not exceeding two hundred thousand penalty units or to imprisonment for a period of not less than six months but not exceeding two years, or to both.

*[Act No. 27 of 2010]*

- (3) For purposes of this Act, an animal movement permit, import or export permit, or registration certificates issued under the Animal Health Act, 2010, may be used for the traceability of an animal, animal product or animal by-product.

## **12. Compulsory animal, animal product and animal by-product identification**

- (1) A person shall cause to be identified an animal, animal product or animal by-product using an animal identification mark issued under this Act.
- (2) Despite subsection (1) where an animal, animal product or animal by-product cannot be physically identified by a person, the animal identification mark issued to a person under this Act shall be used to identify a batch or a group of animals, animal products or animal by-products.
- (3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine of not less than thirty thousand penalty units but not exceeding sixty thousand penalty units or to imprisonment for a period of not less than three months but not exceeding six months, or to both.

## **13. Specifications for animal identification marks and devices for marking animals**

The Traceability Officer shall, by notice in the *Gazette*—

- (a) specify the generic features an animal identification mark that an animal species shall have;
- (b) issue standards and specifications for animal identification marks and devices used for marking animals; and
- (c) specify the age at which an animal shall be identified.

## **14. Internal traceability system**

- (1) An owner of animals or operator shall keep and maintain an internal traceability system for the purposes of tracing animals, animal products and animal by-products at the premises in a prescribed manner.
- (2) An owner of animals or operator who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units.

## **15. Transfer of animal identifying device**

- (1) An animal identifying device shall not be transferred to another animal without the approval of the Traceability Officer.
- (2) A person who contravenes subsection (1) commits an offence.

## **16. Surrender of used animal identifying device**

- (1) A person shall surrender as prescribed, to the Traceability Officer an animal identifying device for animals identified individually once that identifying device is no longer in use.
- (2) A person who contravenes subsection (1) commits an offence.

## **17. Traceability of imported, exported or in transit animal, animal product or animal by-product**

An import permit, export permit or sanitary compliance certificate issued under the Animal Health Act, 2010, shall be used to trace an animal, animal product or animal by-product that is imported, exported or in transit.

*[Act No. 27 of 2010]*

**18. Disease control zonal marks**

- (1) The Traceability Officer shall, by notice in the *Gazette*, publish a list of disease control zonal marks used in designated areas of the Republic and the animal species to which the disease control zonal marks apply.
- (2) The disease control zonal marks shall be used together with the animal identification marks issued under section [21](#) or [22](#).

**Part IV – Registration of animal identification marks and notification of premises****19. Prohibition of operation on unnotified premises and keeping, etc, of unidentified animals**

- (1) A person shall not operate on premises in respect of which notification is not given in accordance with this Act.
- (2) A person shall not keep, sell, buy, transfer or otherwise dispose of animals that are not identified in accordance with this Act.
- (3) A person who contravenes this section commits an offence and is liable, on conviction, to a fine of not less than thirty thousand penalty units but not exceeding sixty thousand penalty units or to imprisonment for a period of not less than three months but not exceeding six months, or to both.

**20. Notification of premises**

- (1) An operator shall, for the purpose of recording the addresses of the premises of the operator, notify the Traceability Officer of the premises in the prescribed manner and form on payment of the prescribed fee.
- (2) The Traceability Officer shall, within thirty days of receipt of the notification under subsection [\(1\)](#), issue the operator with a premises certificate in the prescribed manner and form.
- (3) A premises certificate is valid for the duration of the operation.

**21. Application for registration of animal identification mark**

- (1) An owner of animals shall apply for an animal identification mark to the Traceability Officer in the prescribed manner and form on payment of the prescribed fee.
- (2) The Traceability Officer shall, within thirty days of receipt of an application under subsection [\(1\)](#), approve or reject the application.
- (3) The Traceability Officer shall, where the Traceability Officer rejects an application, inform the applicant in writing stating the reasons for the rejection.
- (4) The Traceability Officer shall, where an applicant satisfies the prescribed requirements, issue to the applicant an animal identification mark certificate in the prescribed manner and form.
- (5) The animal identification mark certificate issued under subsection [\(4\)](#) shall also serve as a premises certificate for the place where the animals are raised.

**22. Application for special animal identification mark**

- (1) A person who intends to register a special animal identification mark shall apply to the Traceability Officer in the prescribed manner and form on payment of the prescribed fee.

- (2) An applicant for the registration of a special animal identification mark shall publish, in the *Gazette* and in a newspaper or other media of wide circulation in the Republic, the special animal identification mark applied for.
- (3) A person claiming ownership of an animal identification mark that is identical to the special animal identification mark published in accordance with subsection (2) may oppose the application, in the prescribed manner and form, within thirty days of the publication.
- (4) The Traceability Officer shall, where the person opposing the application establishes ownership of an animal identification mark identical to the special animal identification mark the applicant has applied to register, reject the application and inform the applicant, in writing stating the reasons for the rejection.
- (5) The Traceability Officer shall, where an application under this section satisfies the prescribed requirements, issue the applicant with an identification mark certificate in the prescribed manner and form, within sixty days of the publication of the special animal identification mark in accordance with subsection (2).
- (6) Where the Traceability Officer fails to inform the applicant of its decision on an application for a special animal identification mark, within the period specified in subsection (5), the application shall be deemed to have been granted.

### **23. Duration of animal identification mark certificate**

An animal identification mark certificate issued under this Act shall be valid for a period that may be prescribed.

### **24. Renewal of animal identification mark certificate**

- (1) A holder of an animal identification mark certificate may, thirty days before the expiration of the validity of the animal identification mark certificate, apply to the Traceability Officer for the renewal of the animal identification mark certificate in the prescribed manner and form.
- (2) The Traceability Officer shall, within thirty days of receiving an application for the renewal of an animal identification mark certificate, approve or reject the application.
- (3) The Traceability Officer shall, where an application is rejected, inform the applicant in writing stating the reasons for the rejection.
- (4) The Traceability Officer shall, where the application satisfies the prescribed requirements, issue the applicant with a renewed animal identification mark certificate in the prescribed form.
- (5) Despite section 23, an animal identification mark certificate that is the subject of an application for renewal in accordance with subsection (1) remains valid until the Traceability Officer makes a decision on the application for its renewal.

### **25. Transfer of animal identification mark**

- (1) A holder of an animal identification mark certificate shall not transfer an animal identification mark to another person without the prior approval of the Traceability Officer.
- (2) A holder of an identification mark who intends to transfer an animal identification mark shall apply to the Traceability Officer in the prescribed manner and form on payment of the prescribed fee.
- (3) The Traceability Officer shall, within thirty days of receiving an application under subsection (1), grant or reject the application.
- (4) The Traceability Officer shall, where the Traceability Officer rejects the application, inform the applicant in writing stating the reasons for the rejection.

- (5) The Traceability Officer shall, where the application satisfies the prescribed requirements, cancel the animal identification mark certificate issued to the applicant and issue the transferee with an animal identification mark certificate in the prescribed manner and form.

## **26. Change in details**

A holder of a certificate issued under this Part shall notify the Traceability Officer of any change in the particulars relating to the certificate within seven days of the change.

## **27. Surrender of certificate**

- (1) Where the holder of a certificate issued under this Part decides to discontinue the business or activity to which the certificate relates, the holder of the certificate shall notify the Traceability Officer, in writing, and shall agree with the Traceability Officer on the terms of the surrender of the certificate.
- (2) The Traceability Officer shall cancel a certificate surrendered under subsection (1).
- (3) Subject to subsection (4), a person whose certificate is cancelled under this section may, in the prescribed manner and form and on payment of the prescribed fee, in the case of—
  - (a) premises, re-notify the Traceability Officer of the intention to operate on the premises; or
  - (b) an animal identification mark, apply for re-registration of the animal identification mark.
- (4) A notification or an application for re-registration under subsection (3) may be made within thirty days from the date of cancellation of the certificate.

## **28. Suspension or cancellation of animal identification mark certificate**

- (1) Subject to the other provisions of this Act, the Traceability Officer may suspend or cancel an animal identification mark certificate if the holder of the animal identification mark certificate—
  - (a) obtained the animal identification mark certificate through fraud, misrepresentation or concealment of a material fact;
  - (b) fails to comply with any term or condition of the certificate of registration; or
  - (c) operates the registered business activity in contravention of this Act or any other relevant written law.
- (2) The Traceability Officer shall, before suspending or cancelling an animal identification mark certificate in accordance with subsection (1), notify the holder of the animal identification mark of the Traceability Officer's intention to suspend or cancel the certificate and shall—
  - (a) give reasons for its intended suspension or cancellation; and
  - (b) require the holder of the animal identification mark certificate to show cause, within a period of not more than thirty days, why the certificate should not be suspended or cancelled.
- (3) The Traceability Officer shall not suspend or cancel an animal identification mark certificate under this section if the holder takes remedial measures to the satisfaction of the Traceability Officer within the period referred to in subsection (2) (b).
- (4) The Traceability Officer shall suspend or cancel an animal identification mark certificate if the holder, having been notified in accordance with subsection (2), does not—
  - (a) show cause to the satisfaction of the Traceability Officer why the certificate should not be suspended or cancelled; or
  - (b) take remedial measures to the satisfaction of the Traceability Officer within the period specified in subsection (2) (b).

- (5) A holder of an animal identification mark certificate that is cancelled shall, within thirty days of being notified of the cancellation, surrender the certificate to the Traceability Officer.
- (6) A person who contravenes subsection (5) commits an offence.
- (7) Subject to subsection (8), a person whose animal identification mark certificate is cancelled may apply for reregistration of an animal identification mark certificate in the prescribed manner and form and on payment of the prescribed fee, if that person takes remedial measures to the satisfaction of the Traceability Officer.
- (8) An application for re-registration of an animal identification mark may be made within thirty days from the date of the cancellation of the animal identification mark certificate.

## **29. Duplicate certificate**

- (1) A person whose certificate is destroyed or lost may apply to the Traceability Officer for a duplicate certificate in the prescribed manner and form on payment of the prescribed fee.
- (2) The Traceability Officer may, on receipt of an application under subsection (1), issue to the applicant a duplicate certificate.

## **Part V – Animal identification and traceability agents**

### **30. Prohibition of acting as agent without registration**

- (1) A person shall not practice as an agent, impersonate or use the title of an agent unless that person is registered as an agent under this Act.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding seven hundred thousand penalty units or to imprisonment for a term not exceeding seven years, or to both.

### **31. Agent may act on behalf of applicant**

Subject to this Act, an agent may act on behalf of an applicant in connection with any matter or proceeding under this Act before the Traceability Officer.

### **32. Application for registration as agent**

- (1) A person who intends to be registered as an agent may apply to the Traceability Officer in a prescribed manner and form on payment of a prescribed fee.
- (2) The Traceability Officer shall, within thirty days of receipt of an application under subsection (1), approve or reject the application.
- (3) The Traceability Officer shall, where the Traceability Officer rejects an application, inform the applicant in writing stating the reasons for the rejection.
- (4) The Traceability Officer shall, where an applicant satisfies the requirements under this Act, issue to the applicant an agent certificate in the prescribed manner and form.
- (5) Where the Traceability Officer fails to inform the applicant of its decision on an application for registration as an agent, within the period specified in subsection (2), the application shall be deemed to have been granted.

### 33. Eligibility for registration as agent

- (1) A person is eligible to be registered as an agent if that person is—
  - (a) a citizen or holder of a residence permit;
  - (b) domiciled in the Republic;
  - (c) not legally disqualified from performing the functions of an agent;
  - (d) not an undischarged bankrupt; and
  - (e) not a body corporate.
- (2) For purposes of this section—

“citizen” has the meaning assigned to the word in the Constitution; and

*[Cap. 1]*

“residence permit” has the meaning assigned to the words in the Immigration and Deportation Act, 2010.

*[Act No. 18 of 2010]*

### 34. Duration of agent certificate

An agent certificate is valid for a period of three years.

### 35. Renewal of agent certificate

- (1) A holder of an agent certificate may, thirty days before the expiry of the period of validity of the agent certificate, apply to the Traceability Officer for the renewal of the agent certificate in a prescribed manner and form on payment of the prescribed fee.
- (2) The Traceability Officer shall, within thirty days of receiving an application for the renewal of an agent certificate, approve or reject the application.
- (3) The Traceability Officer shall, where the Traceability Officer rejects the application, inform the applicant in writing stating the reasons for the rejection.
- (4) The Traceability Officer shall, where the application satisfies the requirements under this Act, issue the applicant with a renewed agent certificate in the prescribed form.
- (5) Despite section [34](#), an agent certificate that is the subject of an application for renewal in accordance with subsection [\(1\)](#) remains valid until the Traceability Officer makes a decision on the application for its renewal.

### 36. Prohibition of transfer of agent certificate

- (1) An agent certificate shall not be transferred to a third party.
- (2) A person who contravenes subsection [\(1\)](#) commits an offence.

### 37. Change in details

A holder of an agent certificate issued under this Act shall, in the prescribed manner and form, notify the Traceability Officer of any change in the particulars relating to the registration within seven days of the change.

### 38. Surrender of agent certificate

- (1) Where the holder of an agent certificate decides to discontinue the business or activity to which the agent certificate relates, the holder shall notify the Traceability Officer, in writing, and shall agree with the Traceability Officer on the terms of the surrender of the agent certificate.
- (2) The Traceability Officer shall cancel an agent certificate surrendered under subsection (1).

### 39. Suspension or cancellation of agent certificate

- (1) The Traceability Officer may suspend or cancel an agent certificate if the holder—
  - (a) does not comply with the terms and conditions of the agent certificate;
  - (b) is legally disqualified from performing the functions of the agent;
  - (c) obtained the agent certificate through fraud, misrepresentation or concealment of a material fact;
  - (d) is convicted of fraud, forgery or uttering a forged document; or
  - (e) is convicted of an offence under this Act.
- (2) The Traceability Officer shall, before suspending or cancelling an agent certificate in accordance with subsection (1), notify the holder of the agent certificate of the Traceability Officer's intention to suspend or cancel the certificate and shall—
  - (a) give reasons for its intended suspension or revocation; and
  - (b) require the holder of the agent certificate to show cause, within a period of not more than thirty days, why the certificate should not be suspended or revoked.
- (3) The Traceability Officer shall not suspend or cancel an agent certificate under this section if the holder takes remedial measures to the satisfaction of the Traceability Officer within the period referred to in subsection (2)(b).
- (4) The Traceability Officer shall suspend or cancel an agent certificate if the holder, having been notified in accordance with subsections (2), does not—
  - (a) show cause to the satisfaction of the Traceability Officer why the certificate should not be suspended or cancelled; or
  - (b) take remedial measures to the satisfaction of the Traceability Officer within the period specified in subsection (2)(b).
- (5) A holder of an agent certificate that is cancelled shall, within thirty days of being notified of the cancellation, surrender the certificate to the Traceability Officer.
- (6) A person who contravenes subsection (5) commits an offence.

## Part VI – Review and appeals

### 40. Review and appeal

- (1) A person who is dissatisfied with a decision of the Traceability Officer under this Act may, within thirty days of the decision, apply to the Director for a review of the decision.
- (2) The decision of the Traceability Officer shall remain in force unless the Director varies or revokes it.
- (3) The Director shall, within thirty days of receiving an application for review under subsection (1), confirm, vary or revoke the decision of the Traceability Officer.



- (4) A person who is dissatisfied with a decision of the Director may, within thirty days of the decision, appeal to the Minister.

#### 41. Appointment and convening of tribunal

- (1) The Minister shall, where an appeal is made to the Minister under section 40, constitute and convene an *ad hoc* tribunal within fourteen days of receiving the appeal.
- (2) A tribunal shall consist of the following members, appointed by the Minister:
  - (a) a chairperson, who shall be a person qualified to be appointed as a Judge of the High Court; and
  - (b) two other members with knowledge and experience in animal identification and traceability or any other appropriate professional field relevant for purposes of the appeal.
- (3) The members of a tribunal shall be appointed on terms and conditions that may be specified in their letters of appointment.

#### 42. Powers of tribunal

- (1) A tribunal shall, within thirty days of being convened, determine an appeal on its merits, taking into account the provisions of this Act and any other relevant written law.
- (2) A tribunal may determine its own procedure and shall not be bound by rules of evidence.
- (3) A tribunal shall afford the appellant the right to appear personally or be represented by a legal practitioner or an agent.
- (4) For purposes of this section, “legal practitioner” has the meaning assigned to the word “practitioner” in the Legal Practitioners Act.

[Cap. 30]

#### 43. Decisions of tribunal

- (1) A tribunal may confirm, vary or quash the decision appealed against.
- (2) A decision of a tribunal shall be in the form of a reasoned judgment and a copy of the judgement shall be supplied to each party to the proceedings and to every person affected by the decision.
- (3) A decision of a tribunal is, except on a point of law, final and binding on the parties to the appeal.
- (4) An appeal against a decision of a tribunal lies to the Court of Appeal.

### Part VII – General provisions

#### 44. Record of animals, animal products and animal by-products

A holder of an animal identification mark or premises certificate shall keep and maintain, in the prescribed form, records of animals, animal products or animal by-products for purposes of animal identification and traceability.

#### 45. Registers

- (1) The Traceability Officer shall keep and maintain registers of—
  - (a) owners of animals, animal products and animal by-products;
  - (b) agents;

- (c) the holders of premises certificates, animal identification mark certificates and agent certificates;
  - (d) cancelled premises certificates, animal identification certificates and agent certificates;
  - (e) animal identification marks; and
  - (f) any other information that the Traceability Officer may determine.
- (2) The registers referred to under subsection (1) shall contain particulars that may be prescribed.
- (3) The registers shall be kept in the custody of the Traceability Officer at the offices of the Traceability Officer and shall be open for inspection to members of the public during normal office hours on payment of a fee that the Traceability Officer may determine.
- (4) The Traceability Officer shall, on an application made by a person as prescribed, issue to the person a certified extract from the register or a copy of a certificate as prescribed, on payment of a fee as the Traceability Officer may determine.

#### 46. Publication of copies of registers

- (1) The Traceability Officer shall cause copies of any of the registers, including alterations of, or additions to those registers, to be printed or published in a manner and form that the Traceability Officer may direct.
- (2) Subject to this Act, a copy of the last published or printed register shall be *prima facie* evidence in legal proceedings of what is contained in that register and the absence of a certificate, is *prima facie* evidence that an animal identification mark is, premises are, or an agent is, not registered.

#### 47. Evidence

In any legal proceedings a record, certificate or computer printout purporting to have been issued by the Traceability Officer regarding the registration, or the transfer or suspension or cancellation of the registration of an animal identification mark, premises or an agent under this Act, or the ownership of an animal identification mark, or any other particulars contained in the animal, animal product, animal by-product or identification and traceability information system, shall on production in such proceedings be *prima facie* evidence of the facts stated in it.

#### 48. General offences

- (1) A person, not being the registered owner of an animal identification mark or acting without the authority of the owner, shall not impose or cause to be imposed on an animal or animal product, animal by-product, the registered animal identification mark or an unregistered animal identification.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period of not less than one year and not exceeding three years, or to both.
- (3) A person shall not put or allow an animal, animal product or animal by-product to be placed with—
  - (a) or identified with an animal identification mark which is not issued under this Act;
  - (b) an animal identification mark which has not been transferred to that person; or
  - (c) an animal identification mark which is not a prescribed animal identification mark relating to the group to which the animal or animal product belongs.
- (4) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine of not less than one hundred thousand penalty units but not exceeding three hundred thousand

penalty units or to imprisonment for a period of not less than one year but not exceeding three years, or to both.

- (5) A person commits an offence if that person—
- (a) is in possession of an animal that is placed with an animal identification mark contrary to the provisions of this Act;
  - (b) alters, mutilates, cancels or destroys an animal identification mark on an animal or animal product, animal by-product;
  - (c) sells or buys an animal or animal product, animal by-product on which an animal identification mark has been altered, mutilated, cancelled or destroyed;
  - (d) alters a certificate issued under this Act;
  - (e) in any application made in terms of this Act, makes or causes to be made a statement which is false; or
  - (f) fails to comply with, or contravenes, any provision of this Act.
- (6) A person convicted of an offence under subsection (5) is liable to a fine of not less than seventy five thousand penalty units but not exceeding two hundred thousand penalty units or to imprisonment for a period of not less than six months but not exceeding two years, or to both.

#### **49. General penalty**

A person who contravenes a provision of this Act, for which a penalty is not provided commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

#### **50. Power of court to order cancellation of certificate**

- (1) A court may, on convicting a person of an offence under this Act order the cancellation of a certificate issued under this Act.

*[Act No. 19 of 2010]*

- (2) Subject to the Forfeiture of Proceeds of Crime Act, where any property is forfeited under this Act, the property shall vest in the State.

#### **51. Guidelines**

- (1) The Unit may make guidelines for the better carrying out of the provisions of this Act.
- (2) The guidelines referred to in subsection (1) shall, on publication in the *Gazette* or in a daily newspaper of general circulation in the Republic, be binding on all persons regulated under this Act.

#### **52. Regulations**

- (1) The Minister may, by statutory instrument, make Regulations for the better carrying out of the provisions of this Act.
- (2) Despite the generality of subsection (1), regulations may make provision for—
- (a) the manner and form of making applications under this Act;
  - (b) the manner and form of giving any notice required by this Act;
  - (c) the manner and form of registration;
  - (d) the requirements to be met for registration;

- (e) the manner of identifying animals, animal products or animal by-products;
- (f) the manner and form in which any transfer of the right to any registered animal identification mark shall be effected;
- (g) the manner and form of transfer of animals that can be physically marked or identified from one owner to the other;
- (h) the conditions, manner and form for issuance of different animal identification marks in respect of the same group of animals to the same applicant;
- (i) the manner and form of registering agents, the requirements for registration to be met by the agents and the scope of work or functions of agent;
- (j) the manner and form to be used in integrating the traceability information system with other information systems as well as the condition to be met by parties seeking to integrate the systems;
- (k) the manner of accessing information and persons to be authorised to access information from the animal identification and traceability information system;
- (l) the fees to be paid under the provisions of this Act;
- (m) the system and procedure to be observed by the Traceability Officer in allocating animal identification marks;
- (n) the manner and form of registration, the requirements to be fulfilled for registration, and traceability systems for different animal species, different animal product, animal by-products, premises, areas and establishments;
- (o) the devices to be used for the purpose of animal, animal product or animal by-product identification and traceability;
- (p) the manner for identifying animals that can be physically marked or identified and the positions on the animals on which the animal identification marks shall be placed;
- (q) the manner for identifying animals that cannot be physically marked; and
- (r) the conditions and animal species under which group or individual animal identification shall apply.

### **53. Repeal of Act No. 28 of 2010, and savings and transitional provisions**

- (1) The Animal Identification Act, 2010, is repealed.
- (2) A certificate of registration issued under the repealed Act shall continue to be valid until expiry, revocation or surrender as if the certificate of registration was issued under this Act.
- (3) An application for a certificate of registration pending under the repealed Act, shall, on commencement of this Act, be issued in accordance with this Act.
- (4) For purposes of this section, “certificate of registration” means a certificate of registration of an identification mark issued under the repealed Act.