



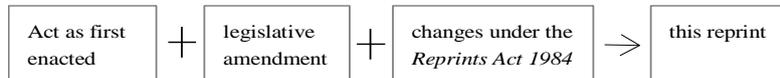
Western Australia

Stock (Identification and Movement) Act 1970

Reprinted as at 7 December 2001

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Western Australia

Stock (Identification and Movement) Act 1970

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Western Australia

Reprinted under the
Reprints Act 1984 as
at 7 December 2001

Stock (Identification and Movement) Act 1970

An Act to provide for the registration and use of Brands and Earmarks for Stock, to regulate the movement of Stock, to repeal the *Brands Act 1904* and the *Droving Act 1902*, and for incidental and other purposes.

Part I — Preliminary

1. Short title

This Act may be cited as the *Stock (Identification and Movement) Act 1970*¹.

[Section 1 amended by No. 46 of 1994 s. 4.]

2. Commencement

This Act shall come into operation on a date to be fixed by proclamation¹.

[3. Repealed by No. 65 of 1984 s. 3.]

4. Repeals

The Acts specified in the Schedule are repealed.

5. Interpretation

In this Act, unless the contrary intention appears —

“**alpaca**” means any male or female alpaca;

“**brand**” means the impression of any letter, sign or character branded upon any stock, including any woolbrand, firebrand, freezebrand, tattoo mark, eartag and any other identifying device approved by the Registrar for use as a brand, but does not include a registered earmark or any age mark, cullmark, flock reference mark, private reference mark, or any mark used in connection with the control of stock diseases;

“**Breed Society**” means a body that carries out the registration of a particular breed or strain of stock and that is recognized as such by the Royal Agricultural Society of Western Australia Incorporated;

“**buffalo**” means any buffalo bull, cow, ox, heifer, steer or calf;

“**camelid**” means any alpaca, llama or vicuna;

“**cattle**” means any bull, cow, ox, heifer, steer or calf;

“**cullmark**” means a mark other than a registered brand or a Breed Society mark, which may be placed on sheep or cattle by the owner when culling out or otherwise identifying, other than by means of a registered brand, the sheep or cattle;

“**deer**” means any stag, buck, hind, doe, spiker, fawn or rig;

“**Director**” means the person holding or acting in the office of Director General of Agriculture;

“**drover**” means a person driving or carrying stock or in possession or charge of any travelling stock, and
“**carrier**” has a corresponding meaning;

“**goat**” means any male or female goat and includes a sterilized goat;

“**horse**” means any stallion, horse, mare, gelding, colt, filly, ass or mule;

“**Inspector**” means an Inspector of brands appointed under this Act;

“**lamb**” means a sheep that has not cut its first 2 permanent incisor teeth;

“**legible**” means capable of being read and accurately interpreted by an Inspector or Police officer;

“**llama**” means any male or female llama;

“**owner**”, in relation to a registered brand, means a person who is registered as being the owner, whether jointly or severally, of any brand registered under this Act, and includes an authorised agent of or manager appointed by, such an owner; and “**owner**”, in relation to a registered earmark, has a corresponding meaning;

“**Police officer**” means any member of the Police Force of Western Australia;

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“proprietor”, in relation to any stock, means any person who is the owner or proprietor, either jointly or severally, of the stock, and includes an authorised agent of, or manager appointed by, such an owner or proprietor;

“register” means the register of brands and earmarks kept pursuant to section 20;

“registered earmark” means the impression of any earmark in the form of a symbol or symbols that is or are registered as an earmark for goats, cattle or sheep pursuant to this Act;

“Registrar” means the Registrar of brands appointed under this Act;

“run” means any station, farm, freehold or leasehold property, or any place where stock are kept, or have been kept or depastured;

“sheep” means any ram, ewe, wether or lamb;

“stock” means any horse, cattle, sheep, swine, goat, buffalo, deer or camelid, or any animal prescribed to be stock under section 62(1a);

“stud”, used in reference to stock, means any breed or strain thereof which is registered in any recognized herd, stud or flock book, maintained by a Breed Society whose rules require identification of individual animals, and includes any Merino sheep stud;

“swine” means any pig, boar, sow, gilt or barrow;

“travelling stock” means any stock being transported or moved from a run to any place by any means;

“the repealed Act” means the *Brands Act 1904*;

“vicuna” means any male or female vicuna;

“waybill” means a waybill which complies with the requirements of Part VIII.

[Section 5 amended by No. 42 of 1978 s. 3; No. 30 of 1979 s. 3; No. 65 of 1984 s. 4; No. 46 of 1994 s. 5.]

6. Transitional provisions

- (1) Any stock that was, prior to the coming into operation of this Act, duly branded with a brand registered under the repealed Act shall, for the purposes of this Act, be deemed to be duly branded in accordance with the provisions of this Act.
- (2) Where a person was, immediately prior to the coming into operation of this Act, the registered owner of a brand registered under the repealed Act —
 - (a) that brand shall be regarded, for the purposes of this Act, as a registered brand; and
 - (b) that person shall be regarded, for the purposes of this Act, as the registered owner of that brand.
- (3) The provisions of subsections (1) and (2) apply, with such modifications and adaptations as are necessary, to earmarks registered under the repealed Act.

6A. Application

If a provision of this Act refers to a proprietor of stock, and the stock referred to are expressed in the plural, the provision is to be taken as also applying to a proprietor of only one of those stock.

[Section 6A inserted by No. 46 of 1994 s. 6.]

Part II — Brands

7. One brand and one earmark to be allotted for each run

- (1) Subject to subsection (2), but despite any other provision of this Act, a proprietor of stock on a run shall be allotted only one registered brand or one registered earmark, or one registered brand and one registered earmark, as the case requires, for the stock on that run.
- (2) A proprietor of swine on a run shall be allotted a registered brand for swine whether or not the proprietor has been allotted a registered brand in respect of other stock on that run.
- (3) If a proprietor of stock owns stock on 2 or more runs, the proprietor may be allotted a registered brand or a registered earmark, or a registered brand and a registered earmark, as each case requires, in respect of each of those runs.

[Section 7 inserted by No. 46 of 1994 s. 7.]

8. Use of brands and earmarks

- (1) Every proprietor of stock possessing a registered brand shall use that registered brand for all of his stock on which the use of that brand is permitted or required pursuant to this Act.
- (2) Subject to subsection (2a), every proprietor of stock possessing a registered earmark shall use that registered earmark for all of his stock on which the use of that registered earmark is permitted or required pursuant to this Act.
- (2a) Subsection (2) does not require a proprietor of goats or camelids possessing a registered earmark to use that registered earmark on any of those goats, or camelids, that have been branded with the proprietor's registered brand.

- (3) In connection with the control of stock diseases or the conduct of research programmes, the Registrar may —
- (a) register brands and earmarks to be used by prescribed persons, whether or not the proprietors of stock, in prescribed circumstances; or
 - (b) by notice in the *Gazette*, exempt specified stock, or the stock of a specified proprietor, from the branding and earmarking requirements of this Act —
 - (i) for a specified period; or
 - (ii) until the exemption is revoked by another notice in the *Gazette*.
- (4) Nothing in this section requires the proprietor of cattle, buffalo or deer to use both the proprietor's registered brand and registered earmark on the cattle, buffalo or deer.

[Section 8 amended by No. 65 of 1984 s. 6; No. 46 of 1994 s. 8.]

9. Brands and earmarks for sheep

- (1) Every proprietor of sheep on any run shall apply for, and obtain, a registered brand, and a registered earmark, for sheep.
- (2) Every brand registered under this Act for sheep shall consist of an arrangement of 2 letters and a numeral allotted by the Registrar and every earmark registered for sheep shall consist of a symbol or symbols allotted by the Registrar.
- (3) A registered brand for sheep shall be applied as —
- (a) a firebrand burnt on the horns of the sheep;
 - (b) a tattoo that is applied in the prescribed manner to the prescribed part of the body of the sheep;
 - (c) an eartag that is of such colour or colours, type and shape as the Registrar determines; or
 - (d) a woolbrand placed on the wool of a sheep,
- or in such other form as the Registrar approves.

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- (4) Where a sheep is branded by means of the application of a woolbrand, the proprietor shall at all times cause the sheep to be legibly so branded.

[Section 9 amended by No. 46 of 1994 s. 9.]

10. Brands, marks, and signs on wool of sheep to be made with approved fluid

- (1) Where any brand, mark or sign is placed on the wool of a sheep, it may be of any colour except black, but the fluid used to place the brand, mark or sign shall be of a type approved by the Registrar.
- (2) The Registrar shall not approve the use of any fluid pursuant to subsection (1) unless the fluid is of a type that complies with Australian Standard AS4054-1992.
- (3) A person who uses any fluid not approved by the Registrar for the purposes of placing a brand, mark or sign on the wool of a sheep, commits an offence.

[Section 10 amended by No. 46 of 1994 s. 10.]

11. Additional earmarking of sheep

The proprietor of any sheep who is also the breeder of the sheep may earmark the sheep in the prescribed manner to denote the year of the birth of the sheep.

12. Earmarking of sheep

For the purposes of this Act —

- (a) a registered earmark for sheep shall be made —
- (i) in the left or near ear of any female sheep;
 - (ii) in the right or off ear of any male sheep;
- and

- (b) any other earmark required or permitted to be made by this Act to sheep shall be made —
 - (i) in the right or off ear of any female sheep;
 - (ii) in the left or near ear of any male sheep.

13. Brands and earmarks for cattle

- (1) Every proprietor of cattle or buffalo, on any run, shall apply for, and obtain, a registered brand, or a registered earmark, for cattle or buffalo or both such a brand and earmark.
- (2) Every brand registered under this Act for cattle or buffalo shall consist of an arrangement of 2 letters and a numeral, as allotted by the Registrar, and every earmark registered for cattle or buffalo shall consist of a symbol or symbols allotted by the Registrar.
- (3) Subject to subsection (5), a registered brand for cattle or buffalo shall be applied as a firebrand or a freezebrand or in such other form as the Registrar approves.
- (4) A registered earmark for cattle or buffalo shall be applied to such ear as the Registrar approves.
- (5) A registered brand shall not be applied as a firebrand on the horn of cattle.

[Section 13 amended by No. 46 of 1994 s. 11.]

14. Brands for horses

- (1) Every proprietor of horses on any run shall apply for, and obtain, a registered brand for horses.
- (2) Every brand registered under this Act for horses shall consist of an arrangement of 2 letters and a numeral, as allotted by the Registrar.
- (3) A registered brand for horses shall be applied as a firebrand or a freezebrand or in such other form as the Registrar approves.

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15. Brands for swine

- (1) Every proprietor of swine shall apply for, and obtain, a registered brand for swine.

[(2)-(4) repealed]

- (5) Every brand registered under this Act for swine —
- (a) shall consist of 5 numerals in arabic figures as allotted by the Registrar;
 - (b) shall be arranged in the manner approved by the Registrar; and
 - (c) shall be applied as a tattoo.

[Section 15 amended by No. 42 of 1978 s. 4; No. 65 of 1984 s. 7; No. 46 of 1994 s. 12.]

15A. Brands and earmarks for goats

- (1) Every proprietor of goats on any run situated wholly or partly in any part of the State specified in section 30(1)(a) shall apply for, and obtain, a registered brand for goats and may, in addition, apply for, and obtain, a registered earmark for goats.
- (2) A proprietor of goats to which subsection (1) does not apply may apply for, and obtain, a registered brand, or a registered earmark, for goats or both such a brand and earmark.
- (3) Every brand registered under this Act for goats shall consist of an arrangement of 2 letters and a numeral, as allotted by the Registrar, and shall be applied as —
- (a) a firebrand burnt on the horns of the goat;
 - (b) a tattoo that is applied in the prescribed manner to an ear of the goat; or
 - (c) an eartag that is of such colour or colours, type and shape as the Registrar determines.

- (4) A registered earmark for goats shall consist of a symbol or symbols, as allotted by the Registrar, and shall be applied —
- (a) to the left ear of any female goat; and
 - (b) to the right ear of any male goat,
- and any other earmark required or permitted by this Act to be applied to goats shall be applied —
- (c) to the right ear of any female goat; and
 - (d) to the left ear of any male goat.

[Section 15A inserted by No. 65 of 1984 s. 8; amended by No. 46 of 1994 s. 13.]

15B. Brands and earmarks for deer

- (1) Every proprietor of deer on any run shall apply for and obtain a registered brand, or a registered earmark, for deer or both such a brand and earmark.
- (2) A registered brand for deer shall consist of an arrangement of 2 letters and a numeral, as allotted by the Registrar, and shall be applied as a firebrand, a freezebrand, a tattoo to an ear or in such other form as the Registrar approves.
- (3) A registered earmark for deer shall consist of a symbol or symbols, as allotted by the Registrar, and shall be applied —
 - (a) if the deer has a registered brand applied as a tattoo to an ear, to the other ear; or
 - (b) to such ear as the Registrar approves.

[Section 15B inserted by No. 46 of 1994 s. 14.]

15C. Brands and earmarks for camelids

- (1) Every proprietor of camelids on any run —
 - (a) shall apply for and obtain a registered brand for camelids; and
 - (b) may, in addition, apply for and obtain a registered earmark for camelids.

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- (2) A registered brand for camelids shall consist of an arrangement of 2 letters and a numeral, as allotted by the Registrar, and shall be —
- (a) applied in the prescribed manner as a tattoo to an ear of the camelid; or
 - (b) impressed on an eartag that is of such colour or colours, type and shape as the Registrar approves.
- (3) A registered earmark for camelids shall consist of a symbol or symbols, as allotted by the Registrar, and shall be applied —
- (a) to the left ear of any female camelid; and
 - (b) to the right ear of any male camelid,
- and any other earmark required or permitted by this Act to be applied to camelids shall be applied —
- (c) to the right ear of any female camelid; and
 - (d) to the left ear of any male camelid.

[Section 15C inserted by No. 46 of 1994 s. 14.]

16. Private markings for goats, sheep and cattle

A proprietor of goats, sheep, cattle, buffalo, deer or camelids may, in addition to marking them with his registered brand and registered earmark —

- (a) in the case of sheep, cattle, buffalo or deer, mark them, either by means of a woolbrand, freezebrand or firebrand, with any numeral or numerals in arabic figures, or mark them with an age mark or cullmark for flock or herd reference or age purposes;
- (b) in the case of goats, sheep or camelids, place on the appropriate ear of the animal any other private reference mark, which shall not be registered; and

- (c) in the case of cattle or buffalo, the owner may place on the ear not allocated for the application of a registered earmark, the cullmark or age mark provided for in paragraph (a),

and any mark made pursuant to this section shall be made in such a manner and in such a position as to render it clearly distinguishable from any registered brand or registered earmark.

[Section 16 amended by No. 65 of 1984 s. 9; No. 46 of 1994 s. 15.]

17. Legibility, size, and form of certain brands and earmarks

- (1) Every registered brand on cattle, buffalo, horses or deer shall —
 - (a) be clearly legible at all stages of the growth of the animal; and
 - (b) when the animal is fully grown, be not less than the prescribed minimum size for such a brand.
- (2) Every registered earmark on cattle, buffalo or deer shall —
 - (a) be clearly legible at all stages of growth of the animal; and
 - (b) when the animal is fully grown, measure not less, in any dimension, than the prescribed size for such an earmark.
- (3) Any registered earmark on a goat, sheep or camelid shall be of the prescribed size for such an earmark.
- (4) Any registered earmark applied to goats, sheep, cattle, buffalo, deer or camelids shall be made by means of a punch or pliers of a type approved by the Registrar.

[Section 17 amended by No. 75 of 1972 s. 3; No. 65 of 1984 s. 10; No. 46 of 1994 s. 16.]

18. Offences relating to branding and earmarking

- (1) A person shall not —
- (a) mark, imprint, or use upon stock —
 - (i) any registered brand or registered earmark of which he is not the owner; or
 - (ii) any brand or earmark that is not registered under this Act and is intended or likely to be, or capable of being, confused with or represented as being a registered brand or registered earmark;
 - (b) use upon stock or have in his possession or upon his run any branding iron, pliers, or any other instrument for branding or earmarking stock by which any brand or earmark, other than the brand or earmark of which he is the owner, or other than a cullmark or age mark, may be imprinted or marked upon stock;
 - (c) brand any stock with his registered brand or earmark any stock with his registered earmark except in the manner specified by or under this Act;
 - (d) remove any branding iron, pliers or other branding or earmarking instrument from the run for which it is registered; or
 - (e) remove any eartag, not his registered eartag, from the ear of any goat, sheep or camelid on a run, unless —
 - (i) any eartag so removed is destroyed within 14 days of removal; and
 - (ii) the registered eartag, if any, of the owner is inserted in place of the removed tag.
- (2) Any person who contravenes or fails to comply with any provision of this section commits an offence against this Act.

[Section 18 amended by No. 65 of 1984 s. 11; No. 46 of 1994 s. 17; No. 73 of 1994 s. 4; No. 57 of 1997 s. 114(1) and (2).]

Part III — Registration

19. Application

The provisions of this Part and Part IV relating to brands apply, with such modifications and adaptations as are necessary, to earmarks for goats, sheep, cattle, buffalo, deer and camelids.

[Section 19 amended by No. 65 of 1984 s. 12; No. 46 of 1994 s. 18.]

20. Registrar, deputy registrars, and the register

- (1) The Governor may from time to time —
 - (a) appoint a person to be the Registrar of brands for the purposes of this Act;
 - (b) appoint one or more persons to be deputy registrars of brands for the purposes of this Act; and
 - (c) revoke any appointment made under paragraph (a) or (b).
- (2) Any deputy registrar shall be subject to the control and direction of the Registrar, but may, subject to any direction to the contrary from the Registrar, do any act or thing which by this Act the Registrar is required or permitted to do.
- (3) The Registrar shall keep a register, in the form and manner prescribed, of all brands registered under this Act.
- (4) If a person applies to the Registrar in the form approved by the Registrar, the Registrar shall provide to that person —
 - (a) any information in the register concerning any registered brand; or
 - (b) on payment of the fee prescribed for the type of copy or extract required, a copy of, or an extract from, the register.

[Section 20 amended by No. 42 of 1978 s. 5; No. 65 of 1984 s. 13; No. 46 of 1994 s. 19.]

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21. Applications for, and allocations of, brands

- (1) Any person requiring a brand shall deliver to the Registrar an application in the prescribed form, accompanied by the prescribed fee.
- (2) Subject to this section, an applicant for a brand may insert in his application a list of combinations of any 2 letters and a numeral, any one of which he desires to have allotted to him, and the Registrar may allot to the applicant any of the combinations on the list that is at the time standing unallotted in the register, but if all the combinations contained in such list have been allotted, the Registrar may allot to the applicant the first unallotted brand standing in the register.
- (3) When any run is situated partly in Western Australia and partly in South Australia or the Northern Territory of Australia, the Registrar may, on such terms and conditions as he considers necessary, allow the use of any South Australian or Northern Territory brand, as the case requires, for that run, if the use of that brand is not likely, in his opinion to cause confusion or to mislead.
- (4) Subject to section 22, where the Registrar is satisfied that an application for a brand has been made in accordance with this Act, and has accordingly allotted a brand to the applicant in accordance with the preceding provisions of this section, the Registrar shall endorse on the application and record in the register particulars of that brand.

[Section 21 amended by No. 42 of 1978 s. 6; No. 46 of 1994 s. 20.]

22. Confusing or misleading brands

- (1) No brand shall be registered which, in the opinion of the Registrar, is likely to cause confusion or mislead.
- (2) Where 2 brands are registered which are, in the opinion of the Registrar, likely to cause confusion or to mislead, he may, after

notice to the owners, cancel the registration of either or both brands.

- (3) No fee shall be charged in respect of the cancellation of a brand pursuant to this section or an application to register a new brand in place of the brand so cancelled.

23. Certificate of registration of brand

- (1) Upon the registration of any brand, the Registrar shall deliver to the applicant a certificate of the registration thereof, in the prescribed form.
- (2) If an application is made to the Registrar in the form approved by the Registrar —
- (a) by the person in whose name the original certificate was issued; and
 - (b) accompanied by the prescribed fee,

the Registrar shall issue to the person a duplicate certificate.

[Section 23 amended by No. 46 of 1994 s. 21.]

24. Expiry of registration of ownership of brands

The registration of the ownership of a brand under section 21, or the re-registration of the ownership of a brand under section 28(2), expires 5 years after the date of registration or re-registration, as the case may be, unless the registration or re-registration has been re-registered or cancelled before then.

[Section 24 inserted by No. 46 of 1994 s. 22.]

Part IV — Transfers and cancellations

25. Transfer of brands

- (1) Any owner of a registered brand who wishes to transfer the right to the registered brand to another person, and that other person, may make and sign a memorandum for the purpose in the prescribed form, and may deliver the memorandum to the Registrar together with the prescribed fee.
- (2) Upon receiving a memorandum duly made and signed under subsection (1) and the prescribed fee, the Registrar shall —
 - (a) cancel the original registration of the brand to which the memorandum relates; and
 - (b) register that brand in the name of the transferee,and thereupon such transferee shall be the owner of the registered brand for the purposes of this Act.
- (3) A person shall sign the memorandum referred to in subsection (1) in the presence of a justice who shall also sign the memorandum to attest that person's signature.

[Section 25 amended by No. 46 of 1994 s. 23.]

26. Ownership of brand exclusive

The owner for the time being of any brand shall be the only person entitled to use the same.

27. Evidence

The fact that any head of stock is branded with any registered brand shall be *prima facie* evidence that such head of stock belongs to the owner of the brand or to the owner of the waybill on which the registered brand is printed.

28. Cancellation

- (1) The Registrar may cancel the registration of the ownership of any brand if —
 - (a) the owner applies in writing for the cancellation of the brand or notifies the Registrar in writing that he has no further use for the brand and does not require the use of any brand in its place;
 - (b) he serves on the owner notice that registration will be cancelled unless, within a period of 3 months next after service of the notice, the owner shows cause why the registration should not be cancelled to the Registrar, and, within that period, he receives a response to the notice claiming to show cause for reasons which the Registrar regards as not being satisfactory; or
 - (c) having served notice on the owner as provided in paragraph (b), and having received no response to the notice, the Registrar causes to be published in a newspaper circulating in the locality of the run or farm, shown in the register as that for which the brand is required to be used, a further notice that registration will be cancelled unless, within a period of 30 days next after the day of the appearance of the further notice in the newspaper, the owner shows cause why the registration should not be cancelled, and, during that period of 30 days, the Registrar —
 - (i) receives a response to the further notice claiming to show cause for reasons which the Registrar regards as not being satisfactory; or
 - (ii) does not receive any response at all to the further notice.
- (2) Re-registration of the ownership of brands may be applied for and effected in the prescribed manner and on payment of the prescribed fee for the brand (or brands) shown in the register as used by an owner on the owner's run (or runs).

s. 29

- (3) Subject to section 7(2), the Registrar shall not re-register the ownership of a brand that is used on a run to a person who is the owner of another registered brand that is, or other registered brands that are, used on that run.
- (4) When the registration of the ownership of a brand —
 - (a) is cancelled under subsection (1); or
 - (b) expires under section 24, not having been re-registered under subsection (2),

the brand is to be regarded as an unallotted brand until re-allotted under section 21.

[Section 28 amended by No. 46 of 1994 s. 24.]

29. Record of transfers and cancellations

The Registrar shall maintain a record of all transfers and cancellations of registered brands.

[Section 29 inserted by No. 42 of 1978 s. 8.]

Part V — Rules of branding

30. Branding or earmarking cattle and branding horses

- (1) Subject to this section, every proprietor shall brand each of his cattle, buffalo, horses and deer with his registered brand —
 - (a) if the run on which it is kept is situated in the South-West Division of the State as described in Schedule 1 to the *Land Administration Act 1997* or in any part of the local government districts of Dundas, Esperance, Westonia, Merredin or Ravensthorpe outside that Division — before it attains the age of 6 months or is removed from the run, whichever first occurs;
 - (b) if the run on which it is kept is situated elsewhere in the State — before it attains the age of 18 months or is removed from the run, whichever first occurs.

- (2) Nothing in subsection (1) requires —
 - (a) a cattle calf under the age of 2 weeks to be branded or earmarked before it is removed from the run for the purpose of sale if, when it is so removed —
 - [(i) deleted]*
 - (ii) the prescribed details of identification of the calf appear on an appropriate waybill;or
 - (b) a cattle calf (other than a calf referred to in paragraph (a)), or a foal, under the age of 6 months to be branded or earmarked before it is removed from the run for the purpose of sale if, when it is so removed —
 - (i) it is accompanied by, and it is to be sold with, its mother; and
 - (ii) in the case of a calf, the prescribed details of identification appear on an appropriate waybill.

s. 31

- (3) It is sufficient compliance with subsection (1) in its application to cattle, buffalo or deer, if the animal is marked with a registered earmark within the appropriate time specified therein in relation to branding, in lieu of being branded with a registered brand.
- (4) The proprietor of any stud cattle or stud deer may, within such time specified in the foregoing provisions of this section for the branding or earmarking of cattle or deer as is appropriate to the particular case, mark the cattle or deer in the prescribed manner with his Breed Society mark, and thereupon no further branding or earmarking of the cattle or deer is required by this Act while the cattle or deer remain on the run or are removed from the run for the purpose of display at an agricultural show or the purpose of sale as registered stud cattle or stud deer.
- (5) The proprietor of any stud horse may, within such time as is specified in this section for the branding of horses, mark the horse in the prescribed manner with his Breed Society mark, and thereupon no further branding of the horse is required by this Act.

[Section 30 amended by No. 30 of 1979 s. 4; No. 57 of 1992 s. 2; No. 46 of 1994 s. 25; No. 14 of 1996 s. 4; No. 31 of 1997 s. 83(1); No. 57 of 1997 s. 114(3); No. 25 of 2000 s. 21.]

31. Earmarking and branding of sheep

- (1) Subject to subsections (4) and (6) every proprietor shall legibly earmark each of his sheep with the registered earmark before the sheep —
 - (a) is weaned;
 - (b) attains the age of 6 months; or
 - (c) is removed from the run,whichever first occurs.

- (2) Subject to subsections (4) and (6), every proprietor of sheep shall —
- (a) if the run on which the sheep are kept is situated in any part of the State specified in section 30(1)(a), brand each of his sheep with his registered brand —
 - (i) forthwith after the sheep is shorn for the first time; or
 - (ii) before the sheep is removed from the run, whichever first occurs; or
 - (b) if the run on which the sheep are kept is situated elsewhere in the State, brand each of his sheep with his registered brand before the sheep is removed from the run.

[(3) repealed]

- (4) Subsections (1) and (2) do not apply so as to require —
- (a) the earmarking or branding of a sucker lamb that is being removed from the run and is accompanied by its mother; or
 - (b) the branding of a lamb being removed from the run if the lamb is consigned for slaughter.
- (5) Where a lamb —
- (a) that was consigned for slaughter and removed from the run is not branded;
 - (b) is not slaughtered but is sent to a run other than the run from which it was so consigned for slaughter,

the proprietor shall cause the lamb to be branded with his registered brand within 48 hours of the arrival of the lamb at the run to which it has been sent.

s. 32

- (6) The proprietor of any stud sheep may, within such time specified in subsection (1) for the earmarking of sheep as is appropriate to the particular case —
- (a) tattoo his Breed Society mark followed by a flock reference number on the same ear of the sheep as would normally carry the registered earmark;
 - (b) firebrand the sheep with his registered brand or his Breed Society mark; or
 - (c) earmark the sheep with his registered earmark,

and thereupon no further branding or earmarking of the sheep is required by this Act while the sheep remains on the run or is removed from the run for the purposes of display at an agricultural show or for the purposes of sale as a registered stud sheep.

[Section 31 amended by No. 75 of 1972 s. 4.]

32. Branding of swine

The proprietor of any swine shall not cause or permit any swine that has attained the age of 10 weeks to be removed from the run for the purpose of sale or slaughter unless it has been branded with his registered brand in the prescribed manner not more than 7 days before its removal from the run.

33. Branding or earmarking goats

- (1) Subject to this section, every proprietor shall brand each of his goats or camelids, kept on a run situated wholly or partly in any part of the State specified in section 30(1)(a), with his registered brand before the goat or camelid —
- (a) is weaned;
 - (b) attains the age of 6 months; or
 - (c) is removed from the run,

whichever first occurs.

- (2) Nothing in subsection (1) requires a young goat or camelid to be branded before it is removed from the run if —
- (a) it has not then attained the age of 6 months nor been weaned; and
 - (b) it is being removed from the run accompanied by its mother.
- (3) The proprietor of any stud goat or stud camelid may, within the time specified in subsection (1) in relation to branding —
- (a) tattoo his Breed Society mark on the ear of the goat or camelid; or
 - (b) firebrand the goat with his Breed Society mark,
- and thereupon no further branding of the goat or camelid is required by this Act.

[Section 33 inserted by No. 65 of 1984 s. 15; amended by No. 46 of 1994 s. 26.]

34. Altered or defaced brands or earmarks

- (1) Any stock bearing a brand which has been altered, blotched, defaced or rendered illegible shall, for the purposes of this Act, be deemed not to be branded.
- (2) Any goat, sheep, cattle, buffalo, deer or camelid bearing an earmark which has been marked, sliced, cut or cropped contrary to this Act shall be deemed, for the purposes of this Act, not to be earmarked.

[Section 34 amended by No. 65 of 1984 s. 16; No. 46 of 1994 s. 27.]

35. Removal of unidentified stock from run

A person shall not remove from the run or from any other place where stock have been sold or disposed of, any stock which is not then branded, earmarked or otherwise identified in accordance with the provisions of this Act.

s. 35A

35A. Branding of imported stock

Except as provided by section 36 the proprietor of any stock which have been imported into the State shall brand the stock within the time and in the manner prescribed.

[Section 35A inserted by No. 75 of 1972 s. 5.]

36. Stock already branded or earmarked

Notwithstanding any other provision of this Act, a proprietor of stock is not required to brand the stock with his registered brand or earmark the stock with his registered earmark, or both, as the case requires, for so long as —

- (a) the stock are legibly branded with the registered brand of a previous proprietor or are legibly earmarked with the registered earmark of the previous proprietor, or are both so branded and earmarked, as the case requires; and
- (b) he has in his possession or control documents establishing his right to the ownership or possession of the stock.

36A. Identification exemption certificate for stock to be exported

- (1) If the Registrar receives an application, in the form approved by the Registrar, from the proprietor of stock that are to be exported from Australia, the Registrar may issue to the proprietor an identification exemption certificate.
- (2) An identification exemption certificate —
 - (a) exempts the stock specified in the certificate from the branding and earmarking requirements of this Act while the stock are on the proprietor's run; and
 - (b) expires 12 months after the date of issue.
- (3) If the stock specified in an identification certificate have not been exported at the time the certificate expires, the proprietor shall brand, earmark or otherwise identify the stock in

accordance with this Act unless the Registrar has issued another certificate under subsection (1) in respect of the stock.

[Section 36A inserted by No. 46 of 1994 s. 28.]

36B. Stock are not branded unless brand appears where prescribed

If a brand does not appear on prescribed stock on the place on the animal prescribed as the place where the brand is to appear, the animal is to be regarded as not having been branded.

[Section 36B inserted by No. 46 of 1994 s. 28.]

Part VI — Inspectors

37. Appointment and powers of Inspectors

- (1) The Governor may appoint Inspectors of brands for the purposes of this Act.
- (2) A person who was, immediately before the coming into operation of this Act, an Inspector appointed under the repealed Act, shall be deemed to have been appointed an Inspector of brands under subsection (1).
- (3) An Inspector or Police officer may —
 - (a) enter upon any part of any run and search for and inspect any stock or branding iron or any other instrument for branding or earmarking stock;
 - (b) seize and destroy any branding iron or other instrument for branding or earmarking stock other than one authorised by this Act;
 - (c) seize, remove and impound any stock not branded or earmarked in accordance with the provisions of this Act, found on any run unless the proprietor, or other person in authority, delivers to the Inspector or Police officer a written explanation as to why the stock are unbranded;
 - (d) seize, remove and impound any stock which are being removed by any person in contravention of the provisions of section 35;
 - (e) at any time enter any part of any run or any other place where the skins of stock are kept and inspect, seize and detain for the purpose of evidence any skins of stock in connection with any breach or suspected breach of a provision of this Act;
 - (f) at any time stop, search and detain any conveyance which he suspects on reasonable grounds is carrying any stock or the skins of any stock, and may inspect, seize and detain for the purpose of evidence any stock or the

- skins of stock so found in connection with an offence or suspected offence against this Act;
- (fa) require the proprietor of any stock, that are not on the proprietor's run and are not branded, earmarked or otherwise identified in accordance with this Act, to brand, earmark or otherwise identify the stock in accordance with this Act;
 - (fb) require the proprietor of any stock or the person who is, or appears to be, in charge or control of any stock, that are not on the proprietor's run and are not branded, earmarked or otherwise identified in accordance with this Act —
 - (i) to return the stock to the proprietor's run, at the proprietor's expense; or
 - (ii) if the stock are not, in the opinion of the Inspector or Police officer, in a fit condition to be returned to the proprietor's run, to have the stock transported, at the proprietor's expense, to an abattoir for slaughter, or to any other location as the Inspector or Police officer directs;
 - (g) exercise such other powers and carry out such other duties as are prescribed.
- (4) Any cost incurred by a person, other than the proprietor of the stock, in transporting the stock under subsection (3)(fb) is a debt due by the proprietor to the person and is recoverable in a court of competent jurisdiction.

[Section 37 amended by No. 46 of 1994 s. 29.]

38. Offences

Any person who —

- (a) hinders or impedes, or attempts to hinder or impede, an Inspector or Police officer in the execution of his duty;

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- (aa) if required under this Act to give any information to an Inspector or Police officer, makes a statement that the person knows to be false or misleading in a material particular;
- (b) refuses, on demand, to produce to an Inspector or Police officer for inspection any branding iron or other instrument for branding or earmarking used or being on any run; or
- (c) refuses to permit an Inspector or Police officer to inspect any stock, or branding iron, or instrument for branding or earmarking,

commits an offence against this Act.

[Section 38 amended by No. 46 of 1994 s. 30.]

Part VII — Straying and unbranded stock

39. Proprietor may be permitted to search for straying stock

- (1) Any person who has reason to believe that any stock of which he is the proprietor are on the run of another person may, if he has been refused permission by that other person to enter and search for such stock, apply to a justice who, after notice given to such proprietor, or any other person in authority, may grant or refuse permission to that firstmentioned person to hunt and collect any stray stock on any run, upon such conditions as to the justice may seem expedient.
- (2) Any permission granted pursuant to subsection (1) shall be in writing and signed by the justice, and shall specify such conditions as the justice thinks fit, and subject to compliance with those conditions, the person to whom permission has been granted may enter such run with the necessary assistants, vehicles or horses and collect and remove all branded stock thereon of which he is the proprietor.

40. Impounding of unidentified stock

Any stock that is not branded, earmarked or otherwise identified in accordance with the provisions of this Act, found depasturing on unenclosed land may be impounded by any Inspector or Police officer.

[Section 40 inserted by No. 75 of 1972 s. 6.]

41. Detention of impounded stock

- (1) Any person who impounds stock under section 37 or 40 shall collect the stock and lodge them in a public pound, or, if there is no public pound within 5 kilometres of the place where the stock have been collected, may lodge them in any private stockyard or other enclosure with the consent of the owner thereof, and shall detain the stock there until they have been disposed of in accordance with the provisions of this Part.

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- (2) Where stock are impounded pursuant to subsection (1) in a private stockyard or other enclosure —
- (a) the person impounding the stock and the owner of the private stockyard or other enclosure shall afford access at any reasonable time to any person who wishes to inspect the stock; and
 - (b) the person impounding the stock shall post on the gate, or some other conspicuous part, of the stockyard or enclosure, a notice in which is set out a description of the stock impounded and the locality from which they were collected, and shall cause the notice to remain so posted until the stock have been disposed of in accordance with the provisions of this Part.

[Section 41 amended by No. 94 of 1972 s. 4 (as amended by No. 83 of 1973).]

42. Disposal of stock detained in public pound

Where any stock impounded under this Act are lodged in a public pound maintained by a local government under the provisions of Part XX of the *Local Government (Miscellaneous Provisions) Act 1960*, those stock shall be dealt with in all respects as if they had been lawfully impounded under the provisions of Part XX of that Act by the local government maintaining that public pound.

[Section 42 amended by No. 14 of 1996 s. 4.]

43. Disposal of stock impounded in private stockyard

- (1) Where stock impounded under this Act are lodged in a private stockyard or other enclosure, the person impounding the stock shall, within 48 hours, furnish a justice with a written statement of the number and description of the stock impounded and of the locality from which they were collected.

- (2) Upon receiving a written statement pursuant to subsection (1), the justice may order that the stock be sold by any person whom he appoints for the purpose on such day, not being less than 12 days after the delivery to him of the written statement, as he so orders.
- (3) Every sale of impounded stock carried out pursuant to this section shall take place at such place as a justice directs or, if he has not so directed, at the Police station nearest to the private stockyard or enclosure where the stock have been impounded and the person conducting the sale shall record in a register full particulars of the stock sold at the sale and the prices for which they were sold and shall, upon completion of the sale, deliver the register to the justice who ordered the sale.
- (4) A justice to whom a register has been delivered pursuant to subsection (3) shall permit any person wishing so to do to inspect the register at any reasonable time.
- (5) A justice who has ordered the sale of any stock pursuant to this section, or a person who has impounded stock ordered to be sold by a justice pursuant to this section, shall not personally or by an agent, purchase or offer to purchase any of the stock so sold.
- (6) Where any stock are sold pursuant to an order of a justice made pursuant to this section —
 - (a) there shall be paid out of the proceeds of the sale the reasonable expenses incurred by the owner of the private stockyard or enclosure or the person impounding the stock, or both of those persons, as the case requires, of impounding, collecting, handling, maintaining and caring for the stock;
 - (b) there shall be paid out of the proceeds of the sale all reasonable expenses incurred in the sale of the stock; and

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- (c) the remainder of the proceeds of the sale after deducting amounts paid under paragraphs (a) and (b) shall be credited to the Consolidated Fund.

[Section 43 amended by No. 6 of 1993 s. 11; No. 49 of 1996 s. 64.]

44. Owner may obtain release of impounded stock

Notwithstanding the provisions of section 43, if at any time prior to the sale of any impounded stock a person proves to the satisfaction of a justice that he is the lawful owner or is lawfully entitled to the possession of any of the impounded stock, the justice may order that, upon payment of the expenses of impounding, collecting, handling, maintaining and caring for the stock, the person detaining the stock shall deliver them up to that firstmentioned person.

45. Purchaser of impounded stock to brand and earmark the stock

Any person who purchases stock at a sale conducted pursuant to section 43 shall, within one month of the sale, brand the stock with his registered brand or with his registered earmark or with both, in accordance with this Act, as the case requires.

Part VIII — Movement of stock

46. Waybill or other prescribed document to be made out for stock being moved

- (1) The proprietor or any other person for the time being having the custody and control of any stock of any type prescribed for the purposes of this section which are on a run or on any other place where stock are sold or disposed of, shall not, except where otherwise prescribed, cause or permit the stock to be removed from the run or place until the drover or carrier of the stock has been furnished with a waybill which meets the requirements of this section, or with such other document as may be prescribed for the purposes of this section.
- (2) Every waybill or other document prescribed for the purposes of this section shall —
 - (a) be made out in triplicate;
 - (b) clearly indicate in writing such particulars concerning the number and type of stock, registered brands or earmarks as defined by the coded earmark index or both, places from which the stock are being driven or carried and the destination thereof, as are prescribed;
 - (c) be signed by such person or persons as are prescribed and be delivered to and retained by such persons and for such periods as are prescribed.
- (3) Any reference in the succeeding provisions of this Part to a waybill shall be construed as including a reference to any other document which may, in accordance with the regulations, be made out and used in place of a waybill.

[Section 46 inserted by No. 75 of 1972 s. 7.]

47. Inspection of travelling stock and waybills

Any Police officer or Inspector may, at any hour of the day or night, inspect any travelling stock and any documents that relate

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to the stock and may compare the number of, and the registered brands and earmarks appearing on, the travelling stock with those specified in any of those documents.

[Section 47 amended by No. 46 of 1994 s. 31.]

48. Endorsement of waybill after inspection

Where, upon an inspection carried out pursuant to section 47, the number of, and the registered brands and earmarks appearing on, the travelling stock accord with the particulars specified in the waybill, the Police officer or Inspector shall endorse the waybill with his name and designation and the date and time of his inspection.

49. Special permits for travelling stock

- (1) A proprietor of stock who desires to move any of his stock repeatedly to and from neighbouring runs for purposes incidental to animal husbandry, may apply in writing to the nearest Inspector for a special permit.
- (2) An Inspector to whom an application is made in accordance with subsection (1), may upon being satisfied that the application is made in good faith, issue to the applicant a special permit, subject to such terms and conditions, if any, as are specified therein.
- (3) Until it is cancelled by an Inspector, a special permit authorises the proprietor to whom it is issued to travel his stock to and from neighbouring runs as often as is necessary for purposes for which the permit was issued, subject to any terms and conditions as are specified in the permit.
- (4) Where an Inspector is of the opinion that the continuance in force of a permit issued pursuant to this section may lead to the spread of disease or may otherwise defeat or impede the achievement of the objects and purposes of this Act, the Inspector may, at any time and whether or not the permit was issued by him, cancel the permit.

- (5) Where a permit is cancelled pursuant to subsection (4), the person to whom that permit was issued or the drover of travelling stock having custody of the permit, shall, upon demand by an Inspector, forthwith deliver up the cancelled permit to the Inspector.
- (6) Where a permit has been cancelled pursuant to subsection (4) an Inspector may at any time issue a fresh permit in place of the cancelled permit, subject to such terms and conditions as the Inspector thinks fit and specifies in the permit.

[Section 49 amended by No. 75 of 1972 s. 8.]

49A. Transport of stock to be exported

- (1) The proprietor of stock that are specified in an identification exemption certificate issued under section 36A —
 - (a) who obtains a movement permit in respect of the transport of the stock; and
 - (b) who provides to the drover or carrier of the stock the permit, a copy of the permit or a written statement, signed by the proprietor, of the number and date of issue of the permit,is not required to brand, earmark or otherwise identify the stock in accordance with this Act if —
 - (aa) the stock are being transported from the proprietor's run direct to a feedlot or to a ship for the purpose of being exported from Australia to a prescribed country; or
 - (bb) having been rejected for export to a prescribed country, they are being transported to an abattoir for slaughter or back to the proprietor's run.
- (2) Subsection (1) does not apply to stock that are being transported to a location to be sold before being transported to a feedlot or to a ship to be exported.

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- (3) A movement permit referred to in this section and section 49B may be applied for, issued and cancelled as if it were a special permit under section 49.

[Section 49A inserted by No. 46 of 1994 s. 32.]

49B. Transport of feral horses to slaughter

- (1) Subject to subsection (2), the proprietor of feral horses that have been mustered on the proprietor's run —
- (a) who obtains a movement permit in respect of the transport of the horses; and
 - (b) who provides to the drover or carrier of the horses the permit, a copy of the permit or a written statement, signed by the proprietor, of the number and date of issue of the permit,

is not required to brand or otherwise identify the horses in accordance with this Act if they are transported, within 30 days after having been mustered, direct to an abattoir for slaughter.

- (2) Subsection (1) does not apply to feral horses on a run that is within the South-West Division of the State, as described in Schedule 1 to the *Land Administration Act 1997*.

[Section 49B inserted by No. 46 of 1994 s. 32; amended by No. 31 of 1997 s. 83(2).]

50. Offences

- (1) It is an offence against this Act for any person to be in possession or charge of any travelling stock unless he is also in possession of the original and first copy of a waybill made out for the stock which complies with the requirements of section 46 or the permit, a copy of the permit or a written statement, signed by the proprietor of the stock, of the number and date of issue of the permit for the stock under section 49, 49A or 49B.

- (2) Any drover or carrier who —
- (a) refuses on demand by a Police officer or stock Inspector to produce his waybill or the permit, a copy of the permit or a written statement, signed by the proprietor of the stock, of the number and date of issue of the permit for the stock under section 49, 49A or 49B; or
 - (b) refuses on demand to stop when ordered to do so by a Police officer or stock Inspector,
- commits an offence.
- (3) Notwithstanding anything in this section, a drover or carrier does not commit an offence against this Act if he moves stock pursuant to a direction given by the proprietor or other person for the time being having the custody and control of stock prescribed for the purpose of this section, if the drover or carrier has in his possession and produces upon request made by a Police officer or stock Inspector a note in the form approved by the Director containing such entries as are required by the form.
- (4) Where a drover or carrier complies with a direction referred to in subsection (3) and delivers to the consignee of the stock moved pursuant to that direction a copy of the note referred to in subsection (3), the drover or carrier, as the case may be, is entitled to recover his charges for the movement of the stock.

[Section 50 amended by No. 75 of 1972 s. 9; No. 91 of 1984 s. 2; No. 46 of 1994 s. 33.]

Part IX — Miscellaneous

[51. *Repealed by No. 42 of 1978 s. 9.]*

52. Possession of stock not branded or earmarked as required

Any person who has in his possession or control any stock which is not branded or not earmarked, or not branded and not earmarked, as the case requires, in accordance with the requirements of this Act, commits an offence in respect of every head of such stock.

53. Brands and earmarks not to be altered or removed

- (1) A person who takes delivery of a consignment of stock shall not, within 6 months of so taking delivery, remove any registered brand that is upon the stock at the time of so taking delivery, but nothing in this subsection shall be construed as preventing a person from removing a registered brand in the form of a woolbrand from sheep in the ordinary course of shearing the sheep and branding the sheep after shearing with his registered brand or from re-branding with his registered brand any sheep on which the woolbrand had become illegible prior to the time of his taking delivery of the sheep.
- (2) A person shall not remove a registered eartag from any goat, sheep, deer or camelid that is on agistment away from the run of the owner of the animal, and where any eartag on such an animal is lost from the ear during agistment, only the tag of the lawful owner may be used in replacement of the lost eartag.

[Section 53 amended by No. 65 of 1984 s. 17; No. 46 of 1994 s. 34.]

53A. Marking of spayed bovine females

A person who is the proprietor of a spayed bovine female animal shall mark it or cause it to be marked in the manner prescribed by the regulations.

[Section 53A inserted by No. 42 of 1978 s. 10.]

53B. Marking of prescribed stock

A person who is the proprietor of stock prescribed for the purposes of this section may, and if required by regulation shall, cause it to be marked in the manner prescribed by the regulations.

[Section 53B inserted by No. 9 of 1980 s. 2.]

54. Offences relating to brands and marks

(1) Any person who —

(a) wilfully slices, crops the ears, blotches, defaces, alters or otherwise renders illegible any registered brand or earmark upon stock or any numeral brand on any cattle, buffalo, horse or deer or any cullmark or age mark;

[(b) deleted]

(c) removes a registered eartag, not his registered eartag, from the ear of any goat, sheep or camelid except as provided in section 18(1)(e);

(d) has in his possession the skin of any sheep from which the ears or portion of the ears have been removed, except where —

(i) the portion of the ear or the portions of ears, as the case may be, have been removed in the course of the lawful branding or earmarking of the sheep; or

(ii) the ear or ears have been removed from the skin immediately prior to the subjecting of the skin to a tanning process or to the export of the skin;

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- (e) has in his possession any skins of any sheep the ears of which have been cropped, cut, sliced or otherwise mutilated to which he cannot prove ownership;
- (f) marks any stock on the ear or wilfully mutilates, crops, slices or in any other manner cuts the ear of any stock, except as required or permitted by this Act; or
- (g) has in his possession any stock which has been branded or earmarked contrary to section 18(1)(a)(ii),

commits an offence against this Act.

- (2) It is a defence to any charge under subsection (1)(d) if the defendant proves that —
 - (a) the skins came into his possession in the course of his business as an agent or owner;
 - (b) he took all reasonable precautions to prevent the skins from coming into his possession; and
 - (c) on becoming aware that he had the skins in his possession, he promptly gave to a Police officer or an Inspector all information in his power relating to the person from whom, and the date and circumstances under which, the skins came into his possession.

[Section 54 amended by No. 75 of 1972 s. 10; No. 65 of 1984 s. 18; No. 46 of 1994 s. 35.]

55. Evidence of proprietorship

On the trial of any person charged with stealing any stock, it shall be competent for the Attorney General or other officer prosecuting on behalf of the Crown to prove that the brand or earmark, or both, appearing upon the animals alleged to have been stolen is the brand or earmark, or the brand and earmark, as the case may be, of the person stated in the information to be the proprietor or of some person through whom such alleged proprietor claims and such proof shall be *prima facie* evidence of proprietorship.

56. Transfer of brands or earmarks to mortgagees

- (1) The owner of any registered brand or earmark, or both, may transfer to the mortgagee of any stock of which that owner is the proprietor the right to use, sell, and transfer the brand or earmark, or both, as the case requires, upon such terms and conditions as are set forth in the deed or instrument of mortgage.
- (2) Notice of any deed or instrument referred to in subsection (1) and renewal of notice before the expiration of each period of 3 years the first of which commences with the original notice, may be given to the Registrar and if so given shall be entered in the register, and no transfer of, or other dealing with, the brand or earmark to which the deed or instrument relates shall be registered before the withdrawal or cancellation of registration of such notice or renewal, without the prior consent of the mortgagee.
- (3) The mortgagee under a mortgage referred to in subsection (1) may execute a transfer of any brand or earmark referred to in the mortgage, and the registration of such transfer shall, for all purposes and as against all persons, except between the owner and mortgagee, be conclusive as to the right of the mortgagee to effect such transfer.
- (4) For the purposes of this section, the term “**mortgage**” means any deed, memorandum, or other instrument whereby security for payment of money is granted over any stock, and all charges and liens given or created by any statute as a security for payment of money, and the term “**stock**” includes the progeny thereof.

57. Certificate to be *prima facie* proof

A certificate purporting to be signed by the Registrar containing a statement as to the registration, transfer or cancellation of any brand, shall in any action, suit, prosecution or trial be received as *prima facie* evidence of such registration, transfer or cancellation.

[Section 57 inserted by No. 42 of 1978 s. 11.]

58. Registered brand or earmark *prima facie* evidence of ownership

For the purposes of any prosecution or action under or independently of this Act, any registered brand or earmark upon any stock shall be *prima facie* evidence of the ownership of such brand and of the ownership of the stock.

59. Division of State into districts

- (1) The Minister may, by order published in the *Government Gazette*, divide the State into 2 or more districts in relation to one or more classes of stock.
- (2) Where, pursuant to subsection (1), the State has been divided into districts in relation to one or more classes of stock, the Registrar may register any brand or earmark for use on the appropriate stock by the owner thereof exclusively in any such district, and in that event —
 - (a) the certificate of registration of any brand or earmark and the register shall indicate the district in which a brand or earmark may be used by the owner thereof;
 - (b) an owner using a brand or earmark upon any stock outside the district within which the brand may be used shall be guilty of an offence against this Act; and
 - (c) the Registrar may refuse to register any brand or earmark for use in any district where, in his opinion, such a brand or earmark is likely to cause confusion or mislead by reason of a similar brand or earmark being registered for use in an adjoining district.

[Section 59 amended by No. 42 of 1978 s. 12; No. 65 of 1984 s. 19; No. 46 of 1994 s. 36.]

60. Offences

- (1) Any person who fails to comply with, or contravenes, any provision of this Act commits an offence.

- (2) All proceedings for offences against this Act shall be heard before a Court of Petty Sessions constituted by a stipendiary magistrate sitting alone.

60A. Prosecutions to be commenced within 3 years

A prosecution for an offence under this Act may be commenced at any time within 3 years after the commission of the offence.

[Section 60A inserted by No. 46 of 1994 s. 37.]

61. Penalties

Any person who commits an offence against this Act is liable on summary conviction —

- (a) to a penalty of not more than \$5 000; or
- (b) to imprisonment for 12 months,

or to both such a fine and imprisonment.

[Section 61 amended by No. 9 of 1980 s. 3; No. 20 of 1989 s. 3; No. 46 of 1994 s. 38.]

62. Regulations

- (1) The Governor may make regulations for any purpose for which regulations are contemplated, required or permitted by this Act and for any other purpose which in his opinion are necessary or convenient for giving effect to the provisions of, and for the full administration of, this Act.

(1a) The regulations may —

- (a) prescribe any animal to be stock for the purposes of this Act; and
- (b) for each animal prescribed under paragraph (a), prescribe all matters relevant to the branding, earmarking or other identification of the animal.

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- (2) The regulations may —
- (a) be of general or limited application, according to time, place or circumstance;
 - (b) impose upon any person or class of persons a discretionary authority;
 - (c) prescribe penalties not exceeding \$5 000 for any breach of the regulations.

[Section 62 amended by No. 20 of 1989 s. 3; No. 46 of 1994 s. 39.]

Schedule

Brands Act 1904

Droving Act 1902



Notes

¹ This reprint is a compilation as at 7 December 2001 of the *Stock (Identification and Movement) Act 1970* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any previous reprints.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Stock (Brands and Movement) Act 1970</i> ²	116 of 1970	10 Dec 1970	1 Jul 1972 (see s. 2 and <i>Gazette</i> 30 Jun 1972 p. 2101)
<i>Stock (Brands and Movement) Act Amendment Act 1972</i>	75 of 1972	16 Nov 1972	1 Oct 1973 (see s. 2 and <i>Gazette</i> 14 Sep 1973 p. 3438)
<i>Metric Conversion Act 1972</i>	94 of 1972 (as amended by No. 19 and 83 of 1973, 42 of 1975)	4 Dec 1972	Relevant amendments (see Third Sch. ³) took effect on 22 Mar 1974 (see s. 4(2) and <i>Gazette</i> 22 Mar 1974 p. 966)
Reprint of the <i>Stock (Brands and Movement) Act 1970</i> approved 12 May 1977 (includes amendments listed above)			
<i>Stock (Brands and Movement) Act Amendment Act 1978</i>	42 of 1978	29 Aug 1978	s. 4, 6 and 10: 22 Dec 1978 (see s. 2 and <i>Gazette</i> 22 Dec 1978 p. 4772); balance: 20 Nov 1981 (see s. 2 and <i>Gazette</i> 20 Nov 1981 p. 4718)
<i>Stock (Brands and Movement) Act Amendment Act 1979</i>	30 of 1979	3 Oct 1979	7 Dec 1979 (see s. 2 and <i>Gazette</i> 7 Dec 1979 p. 3771)
<i>Stock (Brands and Movement) Amendment Act 1980</i>	9 of 1980	8 Oct 1980	8 Oct 1980
<i>Stock (Brands and Movement) Amendment Act 1984</i>	65 of 1984	5 Nov 1984	s. 15: 1 May 1986 (see s. 2 and <i>Gazette</i> 17 Jan 1986 p. 182); balance: 1 Feb 1986 (see s. 2 and <i>Gazette</i> 17 Jan 1986 p. 182)

Stock (Identification and Movement) Act 1970

Short title	Number and year	Assent	Commencement
<i>Stock (Brands and Movement) Amendment Act (No. 2) 1984</i>	91 of 1984	29 Nov 1984	27 Dec 1984
Reprint of the Stock (Brands and Movement) Act 1970 as at 16 Jul 1986 (includes amendments listed above)			
<i>Agricultural Legislation (Penalties) Amendment Act 1989 s. 3</i>	20 of 1989	1 Dec 1989	15 Dec 1989 (see s. 2 and Gazette 15 Dec 1989 p. 4513)
<i>Stock (Brands and Movement) Amendment Act 1992</i>	57 of 1992	11 Dec 1992	8 Jan 1993
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	Deemed operative 1 Jul 1993 (see s. 2(1))
<i>Stock (Brands and Movement) Amendment Act 1994</i>	46 of 1994	27 Sep 1994	17 May 1995 (see s. 2 and Gazette 16 May 1995 p. 1839)
<i>Statutes (Repeals and Minor Amendments) Act 1994 s. 4</i>	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
Reprint of the Stock (Identification and Movement) Act 1970 as at 8 Jun 1995 (includes amendments listed above)			
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Acts Amendment (Land Administration) Act 1997 Pt. 56</i>	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and Gazette 27 Mar 1998 p. 1765)
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 114</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Dairy Industry and Herd Improvement Legislation Repeal Act 2000 s. 21</i>	25 of 2000	5 Jul 2000	14 Jul 2000 (see s. 2(2) and Gazette 14 Jul 2000 p. 3841)

^{1a} On the date as at which this reprint was prepared, provisions referred to in the following table had not come into operation and were not included in compiling the reprint. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Stock (Brands and Movement) Amendment Act 1987 s. 3</i> ⁴	3 of 1987	29 May 1987	To be proclaimed (see s. 2)

² Now known as the *Stock (Identification and Movement) Act 1970*; short title changed (see note under s. 1).

³ The Third Schedule was inserted by the *Metric Conversion Act Amendment Act (No. 2) 1973*.

⁴ On the date as at which this reprint was prepared, the *Stock (Brands and Movement) Amendment Act 1987 s. 3* had not come into operation. It reads:

“

3. Section 32 amended

Section 32 of the *Stock (Brands and Movement) Act 1970* is amended —

- (a) by inserting after the section designation “32” the subsection designation “(1)”;
- (b) by deleting “The” and substituting the following —
“ Subject to subsection (2), the ”;
- (c) by deleting “or slaughter”; and
- (d) by inserting after subsection (1) the following subsection —

“

- (2) Subsection (1) does not require a proprietor of swine to brand any of his swine being removed from the run and consigned for slaughter, regardless of whether that consignment is for the purpose of sale or otherwise.

”

”