

WESTERN AUSTRALIA.

BRANDS.

No. 61 of 1904.

[As amended by Acts:

No. 14 of 1907 assented to 20/12/07;
No. 24 of 1932 assented to 15/12/32;
No. 13 of 1935¹ assented to 12/11/35;
No. 5 of 1948 assented to 16/10/48;
No. 55 of 1952 assented to 23/12/52;
No. 44 of 1956 assented to 18/12/56;
No. 7 of 1964 assented to 2/10/64;
No. 5 of 1966 assented to 16/9/66;
No. 59 of 1967 assented to 5/12/67;
No. 9 of 1969 assented to 6/5/69;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]²

AN ACT to amend the Law relating to the Registration of Brands on Stock.

[Assented to 24th December, 1904.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Brands Act*, 1904-1969, and shall come into operation on the first day of January, one thousand nine hundred and five.

Short title
and
commence-
ment.
Amended
by No. 9 of
1969, s. 1.

¹ Came into operation 1st February, 1936 (see *Gazette* 7/2/36, p. 193).

² In this reprint the numbering of Parts, sections, etc., as contained in the reprint of the Brands Act, 1904-1948, approved for reprint on the 21st August, 1950, is retained.

Division.

2. This Act is divided into parts, as follows:—

PART I.—PRELIMINARY: ss. 1-5.

PART II.—BRANDS: ss. 6-14.

PART III.—REGISTRATION: ss. 15-23.

PART IV.—TRANSFERS AND CANCELLATION: ss. 24-26.

PART V.—RULES OF BRANDING: ss. 27-30.

PART VI.—INSPECTORS: ss. 31-33.

PART VII.—STRAYING AND UNBRANDED STOCK: ss. 34-40.

PART VIII.—MISCELLANEOUS: ss. 41-61.

Repeal First Schedule.

3. The Acts mentioned in the First Schedule are hereby repealed.

Interpretation.
Amended by
No. 24 of
1932, s. 2;
No. 55 of
1952, s. 2;
No. 59 of
1967, s. 2.

4. In the interpretation of this Act, the following terms shall have the meaning set against them respectively, unless the context otherwise indicates:—

“Brand”—The permanent impression of any letter, sign, or character branded upon any stock, including any earmark, fire-brand, and tattoo-mark, the impression of a wool brand, and any other identifying device approved for use as a brand by the Registrar; but not including any numeral branded under section twelve, or a cullmark, or a tag on sheep, not being a device approved for use as a brand by the Registrar or a brand mentioned in subsection (4) of section six of this Act as a brand for use in connection with stock diseases or a flock reference mark or private reference mark respectively mentioned in paragraphs (a) and (b) of subsection (1) of section seven of this Act.

“Brand Directory”—The list of brands compiled by the registrar, and published in the *Government Gazette*.

“Breed Society” means a body that carries out the registration of a particular breed of stock and that is recognised as such by the Royal Agricultural Society of Western Australia Incorporated.

- “Cattle”—Any bull, cow, ox, heifer, steer, calf, or camel.
- “Cullmark”—A mark to be prescribed by the registrar, and which may be used on sheep by the registered owner of any brand when culling out such sheep.
- “Horse”—Any horse, mare, gelding, colt, filly, ass, or mule.
- “Inspector”—Any inspector of brands appointed under this Act, or registrar, as hereinafter defined.
- “Justice”—Any justice of the peace.
- “Minister”—The responsible Minister of the Crown charged with the administration of this Act.
- “Owner”—The registered owner, jointly or in severalty, of any brand registered under this Act, and the executor or administrator of such owner, or the authorised agent or manager of such owner.
- “Police Officer”—Any constable or officer of police.
- “Prescribed”—Prescribed by regulations made under this Act.
- “Proprietor”—The owner or proprietor, jointly or in severalty, of any stock, or the authorised agent or manager of such proprietor.
- “Register”—The register kept in pursuance of this Act, containing a list of brands registered hereunder.
- “Registrar”—The registrar of brands appointed under this Act.
- “Run”—Any run, station, farm, freehold, leasehold, or place where stock are or have been kept or depastured.
- “Sheep”—Any ram, ewe, wether, or lamb.
- “Stock”—Any horse, cattle, or sheep as defined by this Act; and also includes swine or goats.

“Stud” used in reference to stock, means any breed or strain thereof which is registered in any recognised herd, stud, or flock book.

Saving of existing brands. Substituted by No. 14 of 1907, s. 2.

5. All stock branded with a brand registered under any Act hereby repealed shall be deemed to have been duly branded under this Act, and such brand may continue to be used by the registered owner as if registered under this Act until the thirty-first day of December, one thousand nine hundred and eight, but no longer, except with the permission of the Minister, and shall not be transferable except with such permission.

PART II.—BRANDS.

Descriptions of brands. Amended by No. 14 of 1907, s. 3; No. 24 of 1932, s. 3; No. 13 of 1935, s. 3; No. 55 of 1952, s. 3.

6. (1) Every brand registered under this Act for horses and cattle shall consist of two letters and a numeral, and the arrangement of such letters and numeral shall be fixed and determined by the registrar in such order and positions as he may decide:

Provided that in the case of horses and cattle belonging to the Government, the broad arrow may be substituted for the numeral:

Provided, also, that any owner of cattle may register and use an earmark with respect to such cattle, in addition to the two letters and a numeral.

(2) Every brand registered under this Act for sheep shall consist of an earmark and woolbrand with or without a firebrand or tattoo-mark.

An earmark shall be made on the near or left ear for female sheep and on the off or right ear for male sheep, and not otherwise.

A firebrand shall be burnt on the face or horns.

A tattoo-mark may be on any part of the body not covered with wool.

A woolbrand shall be stamped upon such part of the body and in such manner as may be prescribed with suitable material but if and when regulations prescribing the material or class of material with which the brand

shall be marked are made the woolbrand shall thereupon be marked with a material so prescribed.

Every proprietor of sheep on any run must have a registered brand for sheep under this Act, and every such proprietor who fails to obtain such registered brand shall be guilty of an offence against this Act.

(3) The position in which a firebrand or woolbrand may be burnt or stamped shall be specified in the certificate of registration, and such brand may be burnt or stamped on such position only.

(4) (a) In addition to the brands mentioned in subsections (1), (2) and (3) of this section the registrar may register other brands for use in connection with control of stock diseases.

(b) Where the registrar so registers other brands he shall specify in the certificate of registration the marks of those other brands, the purposes for which and the manner in which and the persons by whom the marks may be used.

(c) A person who uses the marks without authority or otherwise than specified in the certificate of registration commits an offence.

7. (1) In the case of sheep the owner may, in addition to marking the same with the registered brand—

- (a) mark the same with any one of the numerals 1 to 9 inclusive, in arabic figures, either as a woolbrand or firebrand or earmark for flock reference purposes, which mark shall not be registered;
- (b) the breeder may place on that ear of the sheep allocated for an age mark under the provisions of section fourteen any other private reference mark, which shall not be registered.

Flock marks for sheep.
Added by No. 24 of 1932, s. 4 as s. 6A.
Amended by No. 13 of 1935, s. 4.

(2) Such mark shall be placed in such a manner and in such position as shall render the same clearly distinguishable from the registered brand.

Brands for swine or goats. Added by No. 24 of 1932, s. 4 ss s. 6B. Amended by No. 59 of 1967, s. 3; No. 9 of 1969, s. 2.

8. (1) A proprietor of swine shall, and a proprietor of goats may, apply for and obtain a registered brand for the same.

(2) Such brand shall be similar to a sheep brand under subsections two and three of section six, and the provisions of those subsections shall apply.

(3) Except in connection with the control of stock diseases, it shall not be compulsory to brand swine or goats, but if they are branded, then subject to subsection (4) of this section, none other than a registered brand shall be used, and then only by the proprietor of the brand in accordance with the certificate of registration thereof.

(4) The breeder of any stud goat may—

- (a) tattoo his Breed Society mark on the ear of the goat; or
- (b) firebrand the goat with his registered brand or Breed Society mark.

One brand one run. No. 61 of 1904, s. 7. Amended by No. 14 of 1907, s. 4; No. 13 of 1935, s. 5.

9. One brand for horses and cattle, with or without an earmark for cattle, and one earmark for sheep, with its accompanying woolbrand, and no more, shall be allowed to each proprietor, unless he is the proprietor of more runs than one, in which case he may be allotted a separate brand and earmark for each run.

Same brand for all stock. No. 61 of 1904, s. 8. Repealed and re-enacted by No. 59 of 1967, s. 4.

10. Every proprietor possessing a registered stock brand shall use the same registered brand for all of his stock.

Size of brand. No. 61 of 1904, s. 9. Amended by No. 24 of 1932, s. 5; No. 5 of 1966, s. 2; No. 59 of 1967, s. 5.

11. (1) Every horse and cattle brand shall—

- (a) be not less than six inches in length and two inches in width, and each letter or number whether upright or horizontal shall be not less than two inches in length or

width, as the case may be, and be spaced not less than three-quarters of an inch from any adjacent letter or number; and

- (b) not exceed nine inches by three inches in overall measurements.

(2) No earmark on a sheep, swine or goat shall exceed three-quarters of an inch in length or half-an-inch in width or diameter. Any sheep, swine or goat earmarked, after the commencement of this Act, otherwise than in accordance with this subsection shall be deemed unbranded.

(3) Every earmark for cattle shall—

- (a) be not less than seven-eighths of an inch in length and five-eighths of an inch in width;
- (b) be not more than one and one-half inches in length and three-quarters of an inch in width.

(4) Every woolbrand shall be not less in overall measurements than seven inches in length and three inches in width, and each letter or numeral, whether upright or horizontal, of every woolbrand shall be not less than three inches in height or length, as the case may be, and be spaced not less than three-quarters of an inch from any adjacent letter or numeral.

12. (1) The person imprinting the first brand upon any horse or head of cattle may imprint any numeral or numerals—

- (a) on the cheek or near thigh; or immediately under the registered brand not less than two inches nor more than three inches from such brand, to denote age; and
- (b) on the neck for reference to any stud or herd book relating to such horse or cattle, but for no other purpose and in no other position.

Person first branding may imprint numeral.
No. 61 of 1904, s. 10.
Amended by No. 24 of 1932, s. 6; No. 44 of 1956, s. 2.

(2) Any numeral or numerals denoting the age of a horse or head of cattle, may, without prejudice to the provisions of subsection (1) of this section, be imprinted on the off shoulder of the animal, but in such position only—

- (a) that if a registered brand has already been, or is being imprinted on the off shoulder, the top of the numeral or numerals is not less than two inches or more than three inches from, and directly underneath, the bottom of the registered brand; or
- (b) that if a registered brand has not already been, or is not being, imprinted, the numeral is, or the numerals are, so imprinted, that sufficient space remains for imprinting on the shoulder the bottom of the next registered brand at least two inches from, and directly above, the top of the numeral or numerals.

Cf. s. 27 (1)
(a) post, as
to the next
registered
brand.

No brand
to be used
unless
registered.
No. 61 of
1904, s. 11.
Amended
by No. 24 of
1932, s. 7.
No. 59 of
1967, s. 6.

13. Except as provided by sections seven, twelve, and fourteen, no person shall—

- (1) mark, imprint, or use upon stock any brand of which he is not the owner;
- (2) use upon stock or have in his possession or upon his run any branding iron, pliers, or any other instrument for branding stock by which any brand, other than the brand of which he is the owner, or a cullmark or age mark, may be imprinted or marked upon stock; or
- (3) remove any branding iron, pliers or other branding instrument from the run for which they are registered.

Any person acting or permitting any act contrary to this section shall be guilty of an offence against this Act.

14. (1) The proprietor of any sheep who is the breeder thereof may earmark the same to denote the year of its birth; such earmark (herein called an age mark) shall be made on the off or right ear for female sheep and on the near or left ear for male sheep, and shall be made during or within three months after the expiration of the year to which it relates and not otherwise.

Age marks.
No. 61 of
1904, s. 12.
Amended
by No. 14 of
1907, s. 5;
No. 24 of
1932, s. 8;
No. 13 of
1935, s. 6;
No. 55 of
1952, s. 4.

In every sixth year after the year one thousand nine hundred and five, the off or right ear, or the near or left ear, as the case may be, of all sheep lambed during the year shall be left clean, except for any cullmark or any reference mark made on the ear under the provisions of section seven.

For sheep lambed every sixth year after the year one thousand nine hundred and six, and in every sixth year thereafter, the age mark shall consist of one notch on the front of the ear.

For sheep lambed every sixth year after the year one thousand nine hundred and seven, and in every sixth year thereafter, the age mark shall consist of two notches on the front of the ear.

For sheep lambed in the year one thousand nine hundred and eight, and in every sixth year thereafter, the age mark shall consist of three notches on the front of the ear.

For sheep lambed in the year one thousand nine hundred and nine, and in every sixth year thereafter, the age mark shall consist of one notch on the back of the ear.

For sheep lambed in one thousand nine hundred and ten, and in every sixth year thereafter, the age mark shall consist of two notches on the back of the ear.

(2) Any person who makes any ear mark, other than a prescribed cullmark or a brand mentioned in subsection (4) of section six of this Act as a brand

for use in connection with stock diseases or a flock reference mark or private reference mark mentioned respectively in paragraphs (a) and (b) of subsection (1) of section seven of this Act, on the off or right ear of any female sheep or on the near or left ear of any male sheep, except as provided by this section, shall be guilty of an offence against this Act.

PART III.—REGISTRATION.

Registrar
and deputy
registrars.
No. 61 of
1904, s. 13.

15. (1) The Governor may appoint a registrar of brands and one or more deputy registrars.

(2) Every deputy registrar shall be subject to the control and direction of the registrar, and shall perform such duties as may be prescribed.

Register.
No. 61 of
1904, s. 14.
Amended
by No. 24 of
1932, s. 9;
No. 55 of
1952, s. 5;
No. 5 of
1966, s. 3.

16. (1) The registrar shall keep a register, in the form prescribed, of all brands registered under this Act.

(2) If any person shall desire any information concerning any registered brand, and shall make application for the same in the prescribed form the registrar shall upon receipt of such application, and on payment of the prescribed fee, not exceeding ten cents, furnish to the applicant the information asked for in such application or so much thereof as can be obtained from the register.

Mode of
obtaining
brands.
No. 61 of
1904, s. 15.
Amended
by No. 55 of
1952, s. 6;
No. 5 of
1966, s. 4.

17. Any person requiring a brand shall deliver to the registrar an application in the form prescribed, accompanied by a fee of one dollar, or if and when another fee is prescribed accompanied by the fee so prescribed.

Registration
of brand.
No. 61 of
1904, s. 16.

18. The registrar, if satisfied that the application is in conformity with this Act, may allot to the applicant, in the order in which his application is received, such unallotted brand standing in the register as he may choose, and if he shall make no choice, the first unallotted brand, and shall register

such brand to the applicant, and shall also mark upon the said application the brand allotted to such applicant.

19. An applicant may insert in his application a list of combinations of any two letters and a numeral, any one of which he desires to have allotted to him, and the registrar may allot to such applicant any such combination on such list that is at the time standing unallotted in the register, but if all such combinations contained in such list have been allotted, the registrar may allot to such applicant the first unallotted brand standing in the register.

Registrar may register special combinations.
No. 61 of 1904, s. 17.
Amended by No. 14 of 1907, s. 6.

The owner of any brand or earmark registered under any Act hereby repealed shall, as far as practicable, be entitled in priority to any other applicant to be registered under this Act as the owner of any brand or earmark which, in the opinion of the registrar, is the same as or similar to the brand or earmark registered under any repealed Act.

When any run is partly in Western Australia and partly in South Australia, the registrar may, on such terms and conditions as he may deem expedient, allow the use of any South Australian brand for such run, if such brand is not likely, in his opinion, to cause confusion or mislead.

20. No brand shall be registered which, in the opinion of the registrar, is likely to cause confusion or mislead.

No brand to be registered which is likely to mislead.
No. 61 of 1904, s. 18.
Amended by No. 14 of 1907, s. 7.

If two brands are registered which are, in the opinion of the registrar, likely to cause confusion or mislead, he may, after notice to the owners, cancel the registration of either or both brands.

No fee shall be charged on such cancellation or on the application to register a new brand in place of the brand cancelled under this section.

Certificate of registration. No. 61 of 1904, s. 19.* Amended by No. 24 of 1932, s. 10; No. 55 of 1952, s. 8; No. 5 of 1966, s. 5.

21. (1) Upon the registration of any brand, the registrar shall deliver to the applicant a certificate of the registration thereof, in the form prescribed.

(2) On the proof of the loss of a certificate of registration, and payment of a fee of twenty-five cents, or if and when another fee is prescribed on payment of the fee so prescribed a duplicate certificate may be issued.

Registrar to publish brand directory yearly. No. 61 of 1904, s. 21.* Amended by No. 24 of 1932, s. 12; No. 55 of 1952, s. 8; No. 7 of 1964, s. 2.

22. (1) The registrar shall, as soon as possible after the thirty-first day of December in each year, cause a brand directory, containing all the brands registered, transferred or cancelled during that year, to be compiled, and published in the *Government Gazette*.

(2) The registrar shall cause a brand directory containing all brands registered or transferred and not cancelled up to the date of the compilation to be compiled and published in the *Government Gazette* at least once in every ten years, commencing in the year nineteen hundred and sixty-four.

Registrar to transmit copies to inspectors, etc. No. 61 of 1904, s. 22. Amended by No. 24 of 1932, s. 13.

23. The registrar shall forthwith, after each publication of a directory, send copies thereof to each inspector, clerk of petty sessions, keeper of a public pound, and deputy registrar in the State.

PART IV.—TRANSFERS AND CANCELLATION.

Memorandum of transfer. No. 61 of 1904, s. 23. Amended by No. 55 of 1952, s. 8; No. 5 of 1966, s. 6.

24. (1) Any owner wishing to transfer the right to a registered brand, and the person to whom the right is intended to be transferred, shall make and sign, in the presence of a justice, a memorandum in the form prescribed, and shall transmit the same to the registrar, together with the fee of fifty cents, or if and when another fee is prescribed together with the fee so prescribed.

(2) The registrar shall thereupon cancel the original registration of such brand, and register the brand mentioned in such memorandum in the name

* Section 20 of 61 of 1904 was repealed by Act No. 24 of 1932, s. 11.

of the transferee, and such transferee shall thereafter be deemed to be the person having the exclusive right to use such brand.

(3) The fact that any horse or head of cattle is branded with any registered brand shall be *prima facie* evidence that such horse or head of cattle belongs to the owner of the brand which has according to the order hereinafter provided, been last imprinted thereon.

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

25. (1) The registrar may cancel the registration of the ownership of any brand—

Cancellation
of ownership
of brand.
Substituted
by No. 5 of
1948, s. 3.
Amended
by No. 55 of
1952, s. 10;
No. 7 of 1964,
s. 3; No. 5 of
1966, s. 7.

(a) if the owner applies in the form prescribed for cancellation and pays a fee of fifty cents or if and when another fee is prescribed pays the fee so prescribed;

(b) if the owner notifies the registrar that he has no further use for the brand and does not require the use of any brand in its place;

(c) if—

(i) having served on the owner notice that registration will be cancelled unless, within a period of three months next after service of the notice, the owner shows cause why the registration should not be cancelled the registrar, during that period, either—

(I) receives a response to the 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 notice, in which case the registrar shall cause

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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 thirty 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 the registrar, during that period of thirty days, either—

- (a) receives a response to the further notice claiming to show cause for reasons which the registrar regards as not being satisfactory, or
- (b) does not receive any response at all to the further notice.

(2) For the purposes of the next preceding subsection, the expression "served" shall be construed in accordance with the provisions of the Interpretation Act, 1918 (No. 30 of 1918), section thirty-one.

(2a) (a) In this subsection "decennial year" means the year nineteen hundred and sixty-four and every tenth year thereafter.

(b) The Registrar may, whether he does or does not comply with the provisions of subsection (1) of this section, cancel the registration of the ownership of any brand which is not re-registered during the decennial year next following the year of its allotment if he has served on the owner notice by registered post of his intention to do so and the owner has not within three months of the service

of the notice shown to the satisfaction of the Registrar cause why the registration should not be cancelled.

(c) Re-registration of the ownership of brands may be applied for and effected in the manner prescribed and on payment of the prescribed fee for all brands shown in the register as used by each owner on any one run or farm.

(3) When registration of the ownership of a brand has been cancelled it shall be regarded as an unallotted brand until re-allotted under the provisions of section eighteen of this Act.

Cf. s. 18 ante.

26. The registrar shall keep a book in which all such transfers and cancellations shall be recorded and he shall notify the same, as provided in section twenty-two.

Registrar to keep transfer book.
No. 61 of 1904, s. 25.
Amended by No. 24 of 1932, s. 15.

PART V.—RULES OF BRANDING.

27. (1) Brands for cattle and horses shall be imprinted on such cattle or horses in the following manner, namely:—

Order of imprinting brands.
No. 61 of 1904, s. 26.
Amended by No. 24 of 1932, s. 16;
No. 55 of 1952, s. 11;
No. 59 of 1967, s. 7.

- (a) Every brand shall be imprinted on the portion and in the consecutive order allotted and indicated in the regulations:

Provided that, in the case of stud horses and stud cattle, the breeder may tattoo his registered brand on the ear of the animal in lieu of imprinting the brand in the position provided in the Seventh Schedule and that, in the case of stud Friesian cattle, the animal may be identified by means of the photograph attached to a certificate of registration of the Friesian Cattle Club of Australia.

(b) [*Repealed by No. 55 of 1952, s. 11.*]

(c) [*Repealed by No. 55 of 1952, s. 11.*]

(d) [*Repealed by No. 55 of 1952, s. 11.*]

(2) All horses and cattle shall be deemed to be branded with the registered brand which appears to be the last brand upon such stock, according to the order prescribed.

(3) (a) In this subsection, "specified area" means that part of the State comprising—

- (i) the districts of Dundas, Esperance, Westonia and Yilgarn, constituted road districts under the Road Districts Act, 1919-1951;¹
- (ii) the South-West Division of the State as defined by section twenty-eight of the Land Act, 1933-1950;² and
- (iii) such parts of the districts of Lake Grace, Merredin, Naremben and Phillips River, so constituted road districts, as do not form part of that Division.

(b) The owner shall mark with his registered brand—

his horses, in whatever part of the State they may be, before they attain the age of eighteen months;

(c) The owner shall mark with his registered brand or earmark—

his cattle, if they are in the specified area, before they attain the age of twelve months;

if they are elsewhere than in the specified area, before they attain the age of eighteen months.

Earmarks to be made by punch or pliers only.
No. 61 of 1904, s. 27.
Amended by No. 14 of 1907, s. 8;
No. 13 of 1935, s. 7;
No. 55 of 1952, s. 12;
No. 59 of 1967, s. 8.

28. (1) (a) Subject to paragraph (b) of this subsection, the owner of any sheep shall—

- (i) earmark the sheep with his registered brand; or
- (ii) tattoo his registered brand on the ear of the sheep,

before the sheep attain the age of six months or, if

¹ Repealed by Local Government Act, 1960.

² Now Land Act, 1933-1969.

they are removed from the run before they attain that age, before so removing the sheep.

(b) The breeder of any stud sheep may, in lieu of marking or tattooing sheep in the manner required by paragraph (a) of this subsection,—

(i) tattoo his Breed Society mark on the ear of the sheep; or

(ii) firebrand the sheep with his registered brand or Breed Society mark,

so long as the tattooing or firebranding carried out under this paragraph is carried out within the time specified in paragraph (a) of this subsection.

(2) All earmarks shall be made by a punch or pliers only, and not otherwise; and no ear or any part thereof shall be removed, cropped, cut, spliced, or split by means of any other instrument than a punch or pliers used to make a registered earmark or a cullmark, or a flock reference mark under the provisions of section seven, or an age mark.

(3) This section does not apply with respect to sucker lambs accompanied by their mothers.

29. (1) The owner of any sheep, not being stud sheep or sucker lambs accompanied by their mothers, or sucker lambs that have not attained the age of six months, that have not been shorn and that are being removed from the run for the purpose of slaughter, shall not cause or permit the sheep to be removed from the run for any purpose unless the owner has first placed his woolbrand, or some other identifying device approved for the purpose by the Registrar, in such manner as to be legible, on the sheep.

Inserted as
s. 27A by
No. 13 of
1935, s. 8.
Amended
by No. 55 of
1912, s. 13;
No. 5 of
1966, s. 8;
No. 59 of
1967, s. 9.

(2) [Repealed by No. 59 of 1967, s. 9.]

(3) This section shall apply only to sheep which are at the material time in that part of the State comprised in the specified area mentioned in paragraph (a) of subsection (3) of section twenty-seven of this Act.

(4) Any person who fails or neglects to comply with the provisions of this section shall be guilty of an offence against this Act.

Certain pigs to be marked. Added by No. 59 of 1967, s. 10.

29A. The owner of any pigs shall not cause or permit any pig that has attained the age of ten weeks to be removed from the run for the purposes of sale or slaughter unless it has been first identified by the placing of a tattoo-mark, in the form of the owner's registered brand, on its forequarter.

Penalty. No. 61 of 1904, s. 28.

30. Any person failing to comply with or offending against any of the provisions of sections twenty-seven or twenty-eight shall be guilty of an offence against this Act.

PART VI.—INSPECTORS.

Appointment of inspectors. No. 61 of 1904, s. 29.

31. The Governor may appoint inspectors of brands, who shall perform such duties as may be prescribed.

Power of inspectors to enter on other runs and property. No 61 of 1904, s. 30. Amended by No. 24 of 1932, s. 17; No. 13 of 1935, s. 9; No. 55 of 1952, s. 14; No. 59 of 1967, s. 11.

32. Every inspector may—

- (1) enter upon any part of any run and search for and inspect any stock, branding iron, or any other instrument for branding stock;
- (2) seize and destroy any branding iron or instrument for branding stock other than that authorised by this Act;
- (3) seize, remove and impound any stock not branded in accordance with the provisions of this Act;
- (4) seize, remove, and impound any sheep which are being removed by any person in contravention of the provisions of section forty-six;
- (5) employ any person to assist him in carrying out the provisions of this Act; and
- (6) order the return to the run from which they have been removed of any stock which are not branded or earmarked in accordance

with this Act and which are removed or are in the course of removal from the run and the stock shall be returned to the run immediately and shall be branded or ear-marked forthwith upon their return.

33. Any person who—

- (a) hinders or impedes, or attempts to hinder or impede, an inspector in the execution of his duty; or
- (b) refuses, on demand, to produce to an inspector for inspection all branding irons, or instruments for branding used or being on any run; or
- (c) refuses to permit an inspector to inspect any stock, or branding iron, or instrument for branding, or
- (d) fails to carry out an order given by an inspector under subsection (6) of section thirty-two of this Act,

Penalty for interfering with inspector. No. 61 of 1904, s. 31. Amended by No. 55 of 1952, s. 15.

shall be guilty of an offence against this Act.

PART VII.—STRAYING AND UNBRANDED STOCK.

34. Any person having reason to believe that any stock of which he is proprietor are on the run of another person may (whenever the proprietor or occupier of such run refuses permission to such person to search for the same) apply to a justice, who, after notice given to such proprietor or occupier (if any), may grant or refuse permission to hunt and collect such stray stock on such run, upon such conditions as to such justice seem expedient.

Justice may grant permit to hunt for stock. No. 61 of 1904, s. 32.

Such permission shall be in writing, signed by the justice, and shall specify such conditions as are imposed, and, subject to such conditions, shall authorise the person therein mentioned, with necessary assistants and horses, to enter and search on such run and collect and remove all branded stock thereon of which he may be the proprietor.

Unbranded
stock may be
impounded.
No. 61 of
1904, s. 33.

35. All unbranded stock found depasturing on unenclosed land may be impounded by any justice, inspector, or police officer.

Authorised
persons
driving in
unbranded
cattle may
lodge them
in public
pound or
private
enclosure.
No. 61 of
1904, s. 34.

36. (1) Any inspector impounding stock under section thirty-two, and any person impounding stock under section thirty-five, may collect such stock and drive and lodge the same in any public pound, or if there is no public pound within three miles of the place where such stock have been collected, then in any private stockyard or other enclosure with the consent of the owner thereof, and there detain them until disposed of under the provisions of this Act.

(2) The Cattle Trespass, Fencing, and Impounding Act, 1882,¹ shall, subject to this Act, apply to all stock so impounded in a public pound.

(3) The net proceeds of the sale of any stock so impounded in a public pound shall, after payment of the fees and charges of the poundkeeper, be paid into and form part of the Consolidated Revenue.

Duties of
persons
impounding
stock in
private yard.
No. 61 of
1904, s. 35.

37. (1) Any person so impounding any stock in a private stockyard or other enclosure shall, within forty-eight hours after such impounding, furnish a justice with a written statement of the number and description of the stock impounded, and of the locality in which they were found, and shall treat such stock with all reasonable food and care.

(2) The justice shall sell or order the sale of the stock, and direct notices thereof to be posted or advertised in such places and manner as he thinks best.

(3) The person impounding shall receive out of the net proceeds of the sale such fee or charge per head as the justice selling or ordering the sale deems reasonable as compensation for such food and care, not exceeding the amount which is by law chargeable by the keeper of the nearest public pound for feeding and maintaining beasts impounded therein, and the balance shall be paid into and form part of the Consolidated Revenue.

¹ Now See. Part XX of Local Government Act, 1960.

38. Whenever stock are impounded in any private stockyard or other enclosure, the person impounding shall afford access at all reasonable hours to all persons wishing to inspect such stock, and shall also post a written notice on the gate, or on some other conspicuous part of the stockyard or enclosure, setting forth a description of the stock impounded, and stating the day on which the same were impounded, and the locality from which they were driven, and such notice shall remain so posted until such stock have been disposed of under the provisions of this Act.

Access to be afforded to stock impounded in private enclosures. No. 61 of 1904, s. 36.

Every person who neglects to furnish such written statement as aforesaid shall be guilty of an offence against this Act.

39. If at any time prior to the sale of any impounded stock any person proves to the satisfaction of a justice the right of property of such person in any of the said stock, such stock shall, without prejudice to the rights of any person possessing an interest therein, be given up, upon the order of such justice, and upon payment of the expenses of the food and keep of such stock ascertained as aforesaid.

Property protected if proof of proprietorship given. No. 61 of 1904, s. 37.

Such expenses, if the stock are impounded in a private stockyard or enclosure, shall be paid to the person who collected and impounded the stock.

40. (1) All stock impounded in a private stockyard or other enclosure may be sold, without an auctioneer's license, on or after the twelfth day after the day on which the written statement in respect thereof has been given to a justice as aforesaid, unless such twelfth day happens to fall on a Sunday, Christmas Day, or Good Friday, in which case such sale shall take place on the following day, and unless the sale is suspended by the order of a justice, in which case the sale shall take place upon the day appointed anew by the said justice.

Impounded stock may be sold. No. 61 of 1904, s. 38.

(2) Every sale shall take place at the police station nearest to the private stockyard or enclosure where such stock have been impounded, or at such

Time, place, and manner of sale.

other place as the justice ordering the sale shall direct, in the presence of a police officer, who shall keep a register describing the marks and particulars of all stock so sold, which register shall be open to public inspection at all reasonable times.

(3) Every sale shall commence at the hour of noon, and the stock shall be offered in lots to suit purchasers, and neither the person who impounded the stock, nor the justice who made the order for the sale, nor the person who actually makes the sale shall, personally or by agent, purchase any of such stock, and any person so offending shall be guilty of an offence against this Act.

Purchaser of impounded stock to brand.

(4) The purchaser of any stock at such sale shall, within one month from the sale, brand the stock with his registered brand, or, in the event of his not owning a registered brand, shall forthwith apply for the registration of a brand, and then brand such stock within the time aforesaid.

PART VIII.—MISCELLANEOUS.

Registrar and others to keep copy of directory and gazettes open to inspection.
No. 61 of 1904, s. 39.
Amended by No. 24 of 1932, s. 18.

41. (1) The registrar and every deputy registrar, inspector, clerk of petty sessions, and poundkeeper shall keep copies of—

- (a) the latest edition of the brand directory;
- (b) all regulations under this Act;

and shall permit any person to inspect such documents at all reasonable hours.

(2) Every deputy registrar, inspector, clerk of petty sessions, or poundkeeper who fails to comply with any of the requirements of this section shall be guilty of an offence against this Act.

When stock impounded, notice to be given to owner.
No. 61 of 1904, s. 40.

42. When any stock are impounded in a public pound, the poundkeeper shall forthwith—

- (a) send notice thereof to the owner of the brands which appear on such stock, and when the poundkeeper has any reason to suppose that such stock belong to a person other than the owner of any of the said

brands, the poundkeeper shall also send notice of the impounding to the supposed owner of such stock; and

- (b) send a description of the impounded stock, together with their brands and earmarks, to the registrar, who shall forthwith publish the same in the *Government Gazette* and in a newspaper circulating within the district;
- (c) post a description of the impounded stock, together with their brands and earmarks, at the nearest police station.

Every poundkeeper who neglects or delays to send any such notice or description shall be guilty of an offence against this Act.

43. (1) The registrar shall allot to each public pound throughout the State a brand for such public pound, and shall register the same accordingly.

Distinguish-
ing brand
to be used
by each
public
pound.

(2) The keeper of a public pound shall, on the sale of any horses or cattle impounded therein, brand them with such brand on the portions and in the order prescribed by this Act in such manner as to show that the brand is the last brand at that time imprinted on such horses or cattle.

Poundkeeper
to brand
with pound
brand.
No. 61 of
1904, s. 41.

(3) Any poundkeeper who fails to comply with the provisions of this section shall be guilty of an offence against this Act.

Penalty.

44. Any person who—

- (a) brands any stock with a registered brand except with a brand mentioned in subsection (4) of section six of this Act as a brand for use in connection with stock diseases without the authority of the owner thereof; or
- (b) brands any stock with any brand which has not been registered under this Act, except as provided by sections five, seven, twelve and fourteen of this Act; or

Penalty for
branding
stock not
property of
brander.
No. 61 of
1904, s. 42.
Amended
by No. 24 of
1932, s. 19;
No. 13 of
1935, s. 10;
No. 55 of
1952, s. 16.

- (c) brands any stock of which he is not proprietor with his registered brand; or
- (d) brands any sheep, horse, or head of cattle with any numeral, except as provided by section seven and section twelve; or
- (e) brands any numeral brand except as provided by section twelve, or brands any horse or head of cattle not in accordance with the provisions of section twenty-seven; or
- (f) slices, crops the ears, blotches, defaces, alters, or otherwise renders illegible any brand upon stock or any numeral brand on any horse or head of cattle or any cullmark or age mark; or
- (g) has in his possession sheep with cropped or mutilated ears; or
- (gg) has in his possession the skins of any sheep from which the ears or portion of the ears have been removed, except in accordance with—
 - (i) any lawful branding under this Act; or
 - (ii) the provisions of section fifty-six of this Act;or has in his possession any skins of any sheep the ears on which have been cropped, cut, sliced, or otherwise mutilated.
- (h) marks any stock on the ear or mutilates, crops, slices, or in any other manner cuts the ear of any stock, except as provided by this Act; or
- (i) makes any claim under section thirty-two to any stock of which he is not the proprietor; or

(j) causes, directs, or assists in, or permits or suffers any such matter or thing as aforesaid,
shall be guilty of an offence against this Act.

Provided that it shall be a defence to any charge under paragraph (gg) of this section if the defendant prove—

- (i) that the skins came into his possession in the course of his business as an agent; and
- (ii) that he took all reasonable precautions to prevent such skins coming into his possession; and
- (iii) that on becoming aware that he had the skins in his possession he promptly gave to the officers of police or an inspector all information in his power relating to the person from whom and the date and circumstances under which he became possessed thereof.

45. (1) Any stock bearing a brand or numeral brand which has been altered, blotched, defaced, or rendered illegible, and all sheep and cattle of which either ear has been branded, marked, sliced, cut, or cropped contrary to this Act shall be deemed to be unbranded.

Stock on which brand been altered or blotched to be deemed unbranded.
No. 61 of 1904, s. 43.
Amended by No. 14 of 1907, s. 9; No. 5 of 1966, s. 9; No. 59 of 1967, s. 12.

(2) All sheep upon which the registered woolbrand is not kept visible and legible shall be deemed not to be branded with that woolbrand.

46. [*Repealed by No. 59 of 1967, s. 13.*]

47. (1) An owner of sheep shall not sell or offer for sale any of his sheep unless they are branded in accordance with the provisions of this Act.

Inserted as s. 43B by No. 13 of 1935, s. 12.
Amended by No. 55 of 1952, s. 17; No. 5 of 1966, s. 11; No. 59 of 1967, s. 14.

(2) An owner of horses or cattle shall not sell or offer them for sale unless a registered horse and cattle brand or earmark is distinctly and legibly marked on them as required by this Act but this subsection does not apply to a sale or offering for

sale of horses or cattle which by subsection (3) of section twenty-seven of this Act are not required by reason of their age to be so branded or earmarked.

(3) Any person who fails to comply with the provisions of this section shall be guilty of an offence against this Act.

Offence of having unbranded stock in possession.
No. 61 of 1904, s. 44.
Amended by No. 24 of 1932, s. 20; No. 55 of 1952, s. 19.

48. Every person having any stock other than swine or goats in his custody or possession, or on any run of which he is owner, occupier, or in charge, shall, if the stock is not branded or earmarked as required by this Act, be guilty of an offence against this Act, in respect of every such head of stock.

49. [*Repealed by No. 55 of 1952, s. 19.*]

Owner may mortgage brand.
No. 61 of 1904, s. 46.
Amended by No. 55 of 1952, s. 20.

50. (1) The owner of any brand may transfer to the mortgagee of any stock of which such owner is the proprietor the right to use, sell, and transfer such brand, upon such terms and conditions as are set forth in the deed or instrument of mortgage. Notice of such deed or instrument and renewal of notice before the expiration of each period of three 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 such brand shall be registered before the withdrawal or cancellation of registration of such notice or renewal without the consent of the mortgagee.

(2) The mortgagee under any such mortgage may execute a transfer of the brand or brands 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.

51. (1) Every owner of stock which is included in a mortgage existing at the commencement of this section, and which is not already branded with the registered brand of such owner shall, if required so to do by the mortgagee of such stock, brand with the registered brand of such owner each and every head of stock which is already four months old, and also each and every head of stock which is not yet four months old as and when it reaches that age.

Owner of mortgaged stock of the age of four months or more must brand such stock in certain cases.
Inserted as s. 46A by No. 24 of 1932, s. 22.

(2) Every owner of stock which is included in a mortgage given after the commencement of this section shall, if required so to do by the mortgagee of such stock, forthwith, after the giving of the mortgage, brand with the registered brand of the owner each and every head of stock which is then already four months old and is not so branded, and also each and every head of stock which thereafter during the continuance of the mortgage shall become four months old as and when it reaches that age.

(3) 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 includes 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.

(4) Any mortgagee of stock to whom this section applies may, at any time and from time to time during the continuance of the mortgage of such stock, serve on the owner thereof notice in writing requiring such owner, within a specified time in the notice, being not less than one month, to brand with the registered brand of the owner the stock included in the mortgage in accordance with the provisions of this section.

(5) If the owner of stock included in a mortgage to whom this section applies refuses or neglects to comply with the provisions of any notice served upon

him by the mortgagee of such stock under and in accordance with subsection four of this section, such owner shall be guilty of an offence against this Act.

(6) This section shall apply only to the South-West Division of the State as constituted under the provisions of the Land Act, 1898¹, and to such other defined portions of the State to which the Governor may from time to time declare by proclamation that this section shall apply.

Published statements to be received as *prima facie*. No. 61 of 1904, s. 47. Amended by No. 24 of 1932, s. 23.

52. A copy of the brand directory published in the *Government Gazette* containing a statement of 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.

Registered brand *prima facie* evidence of ownership. No. 61 of 1904, s. 48.

53. For the purposes of any prosecution or action under or independently of this Act, any registered brand upon any stock shall be *prima facie* evidence of the ownership of such brand, and the proprietorship of the stock on which the last such brand is imprinted, and, in the case of horses and cattle, according to the order hereinbefore prescribed.

Ibid. on charge of stealing. No. 61 of 1904, s. 49. Amended by No. 24 of 1932, s. 24.

54. 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 appearing upon the animals alleged to have been stolen is the brand of the person charged 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.

Inspector or police officer may seize stock illegally branded. Inserted as s. 49A by No. 24 of 1932, s. 25. Amended by No. 13 of 1935, s. 14.

55. (1) Any inspector or police officer may at any time enter any land, holding, building, structure, or place where any stock or the skins of any slaughtered stock are usually kept, or are on reasonable grounds suspected of being, and inspect and seize and detain for the purpose of evidence all such

¹ Now Land Act, 1933.

stock or skins which may afford evidence in connection with any breach or suspected breach of this Act.

(2) Any inspector or police officer may at any time stop and search any conveyance or boat which he suspects on reasonable grounds is carrying any stock or the skins of any slaughtered stock and inspect and seize and detain for the purpose of evidence all such stock or skins which may afford evidence in connection with any breach or suspected breach of this Act.

56. No person shall remove from or mutilate the ears on any sheep skins, Provided that nothing herein contained shall prevent a person removing the ears from a sheep skin immediately before the skin is subjected to any tanning process, or immediately before export.

Offence to mutilate ears on sheepskins. Inserted as s. 49B by No. 24 of 1932, s. 25. Amended by No. 13 of 1935, s. 15.

Any person who commits a breach of this section shall be guilty of an offence against this Act.

57. A person guilty of an offence against this Act shall be liable, on summary conviction, to a fine not exceeding one hundred dollars, or to imprisonment with or without hard labour for a period not exceeding six months.

Mode of prosecuting offences against this Act. No. 61 of 1904, s. 50. Amended by No. 14 of 1907, s. 10; No. 5 of 1966, s. 12.

58. If the justices before whom any person is brought for an offence punishable under this Act are of opinion that there ought to be a prosecution for an indictable offence, they may abstain from dealing with the case summarily, and commit the defendant to take his trial for the indictable offence.

Justices discretion to send summary cases for trial. No. 61 of 1904, s. 51.

59. The Minister may, by order published in the *Government Gazette*, divide the State into two or more districts for the purposes of this Act, so far as it relates to the branding of sheep, and thereupon the registrar may register any brand for use by the owner thereof exclusively in any such district.

Districts. No. 61 of 1904, s. 52.

In any case the following provisions shall apply:—

- (1) The certificate of registration of any brand and the Brands Register and Brands Directory shall indicate the district in which a brand may be used by the owner thereof.
- (2) Any owner using a brand upon any sheep outside the district within which such brand may be used shall be guilty of an offence against this Act.
- (3) The registrar may refuse to register any brand for use in any district where in his opinion such brand is likely to cause confusion or mislead by reason of a similar brand being registered for use in an adjoining district.

Regulations.
No. 61 of
1904, s. 53.

60. The Minister may make regulations dealing with—

- (1) Applications for and registration of brands.
- (2) Transfers and cancellations of brands.
- (3) The manner and form of books to be kept by the registrar.
- (4) The manner of selling impounded stock.
- (5) The duties of all officers and the management of all offices appointed or established under this Act or any Act hereby repealed.
- (6) The form and contents of notices of mortgages under section fifty, and the manner of withdrawing or cancelling such notices.
- (7) All other matters necessary for the carrying out of this Act.

Interpre-
tation Act,
1898,¹
No. 61 of
1904, s. 54.

61. Sections E, F, G, and H of the Interpretation Act, 1898,¹ shall be incorporated with this Act.

¹ See the Interpretation Act, 1918, Section 47, and the sections E to H of the Second Schedule.

FIRST SCHEDULE.

Section 3.

Repeals.

No. and Year.	Title.
45 Vict., No. 7	The Brands Act, 1881.
46 Vict., No. 18	The Brands Act, 1881, Amendment Act, 1882.
49 Vict., No. 3	The Brands Act, 1881, Amendment Act, 1885.

Amended
by No. 14 of
1907, s. 12.

SECOND SCHEDULE
THIRD SCHEDULE
FOURTH SCHEDULE
FIFTH SCHEDULE
SIXTH SCHEDULE
SEVENTH SCHEDULE

} [Repealed by No. 55 of 1952, s. 21.]