

Approved for Reprint 12th May, 1977.

WESTERN AUSTRALIA.

STOCK (BRANDS AND MOVEMENT).

No. 116 of 1970 .

[As amended by Acts:

No. 75 of 1972², assented to 16th November, 1972;

No. 94 of 1972³, (as amended by No. 83 of 1973);

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

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, 1904-1969 and the Droving Act, 1902-1954, and for incidental and other purposes.

[Assented to 10th December, 1970.]

BE it enacted—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Stock (Brands and Movement) Act, 1970-1973*.

Short title.
Amended by
No. 83 of
1973, s. 2.

¹ Proclaimed 1 July, 1972; See G.G. 30/6/72, p. 2101.

² Proclaimed 1 October, 1973; See G.G. 14/9/73, p. 3438.

³ Metric Conversion Act, 1972-1973. The relevant amendments included in this reprint effective from 22/3/74; See G.G. 22/3/74, p. 966.

Commence-
ment.

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

Arrange-
ment.

3. This Act is divided into parts, as follows—
 PART I.—PRELIMINARY, ss. 1-6.
 PART II.—BRANDS, ss. 7-18.
 PART III.—REGISTRATION, ss. 19-24.
 PART IV.—TRANSFERS AND CANCELLATIONS, ss. 25-29.
 PART V.—RULES OF BRANDING, ss. 30-36.
 PART VI.—INSPECTORS, ss. 37-38.
 PART VII.—STRAYING AND UNBRANDED STOCK, ss. 39-45.
 PART VIII.—MOVEMENT OF STOCK, ss. 46-50.
 PART IX.—MISCELLANEOUS, ss. 51-62.
 SCHEDULE.

Repeals.

4. The Acts specified in the Schedule to this Act are repealed.

Interpreta-
tion.

5. In this Act, unless the contrary intention appears—

“brand” means the impression of any letter, sign or character branded upon any stock, including any woolbrand, firebrand, freeze-brand, 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;

“brand directory” means a list of registered brands and earmarks compiled by the Registrar pursuant to section 24 of this Act;

“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” 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;

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

“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 two permanent incisor teeth;

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

“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 authorized 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;

“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 authorized agent of, or manager appointed by, such an owner or proprietor;

Stock (Brands and Movement).

“register” means the register of brands and earmarks kept pursuant to section 20 of this Act, containing a list of brands registered hereunder;

“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 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 or goat;

“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, 1904-1969;

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

Transitional provisions.

6. (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) of this section apply, with such modifications and adaptations as are necessary, to earmarks registered under the repealed Act.

PART II.—BRANDS.

7. A proprietor of stock shall not be granted more than one registered brand and one registered earmark for cattle, one registered brand for horses, one registered brand and one registered earmark for sheep, one registered brand for swine and one registered brand for goats, unless he is a proprietor of more runs than one, in which case he may be allotted a separate brand and, if applicable, a separate earmark for each kind of stock for each run.

One brand
for each run.

8. (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.

Use of
brands, etc.

(2) 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.

(3) The Registrar may register other brands for use by prescribed persons in the prescribed circumstances in connection with the control of stock diseases.

Brands, etc.,
for sheep.

9. (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 two 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 face or horns of the sheep;
- (b) a tattoo that is applied in the prescribed manner to a part of the body of the sheep that is not covered by wool;
- (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.

(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.

Woolbrands,
etc., to be
made with
approved
fluid.

10. (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) of this section unless the fluid is of a type that has been approved by the Australian Wool Board.

(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.

11. 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.

Additional earmarking of sheep.

12. For the purposes of this Act—

Earmarking of sheep.

(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. (1) Every proprietor of cattle on any run shall apply for, and obtain, a registered brand, or a registered earmark, for cattle or both such a brand and earmark.

Brands for cattle.

(2) Every brand registered under this Act for cattle shall consist of an arrangement of two letters and a numeral, as allotted by the Registrar, and every earmark registered for cattle shall consist of a symbol or symbols allotted by the Registrar.

(3) A registered brand for cattle shall be applied as a firebrand or a freezebrand or in such other form as the Registrar approves.

Brands for
horses.

14. (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 two 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.

Brands for
swine and
goats.

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

(2) A proprietor of goats may apply for, and obtain, a registered brand for goats.

(3) A registered brand for swine or for goats shall consist of an arrangement of two letters and a numeral, as allotted by the Registrar, and shall be applied as a tattoo.

Flock mark-
ings, etc.,
for sheep
and cattle.

16. A proprietor of sheep or cattle may, in addition to marking the sheep or cattle with his registered brand and registered earmark—

(a) mark the sheep or cattle, either by means of a woolbrand, freezebrand or firebrand, with any numeral or numerals in arabic figures, or mark the sheep or cattle with an age mark or cullmark for flock or herd reference or age purposes;

(b) in the case of sheep, place on the appropriate ear of the sheep any other private reference mark, which shall not be registered; and

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

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.

17. (1) Every horse brand and every cattle brand on an animal shall—

Sizes of certain brands and earmarks. Amended by No.75 of 1972, s. 3.

- (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 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 sheep shall be of the prescribed size for such an earmark.

(4) Any registered earmark applied to sheep or cattle shall be made by means of a punch or pliers of a type approved by the Registrar.

18. (1) A person shall not—

Use of unregistered brands, etc.

(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 they are registered; or
- (e) remove any eartag, not his registered eartag, from the ear of sheep on a run, unless—
 - (i) any eartag so removed is destroyed within fourteen days of removal; and
 - (ii) the registered eartag of the owner is inserted in place of the removed tag.

“this Act”,
c.f. No. 30. of
1918, s. 4.

(2) Any person who contravenes or fails to comply with any provision of this section commits an offence against this Act.

PART III.—REGISTRATION.

Application.

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

Registrar of
brands, etc.

20. (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) of this subsection.

(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 prescribed, of all brands registered under this Act.

(4) The Registrar shall upon—

- (a) receipt of an application by a person for information concerning any registered brand; and
- (b) payment of such fee, not exceeding ten cents, as is prescribed,

furnish to the person such of the information sought as is contained in the register.

21. (1) Any person requiring a brand shall deliver to the Registrar an application in the prescribed form, accompanied by the prescribed fee.

Applications
for, and
allocations
of, brands.

(2) An applicant for a brand 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 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 of this Act, 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.

Confusing or misleading brands.

22. (1) No brand shall be registered which, in the opinion of the Registrar, is likely to cause confusion or mislead.

(2) Where two 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.

Certificate of registration of brand.

23. (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) On the proof of the loss of a certificate of registration and payment of the prescribed fee, a duplicate certificate may be issued.

Brand directories.

24. (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 complete 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*—

- (a) within three years of the coming into operation of this Act; and
- (b) at least once in each period of ten years thereafter.

(3) The Registrar shall forthwith after each publication of a directory under subsection (1) or (2) of this section, cause a copy thereof to be sent to each Inspector, clerk of a Court of Petty Sessions, keeper of a public pound, and deputy registrar.

PART IV.—TRANSFERS AND CANCELLATIONS.

25. (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, in the presence of a justice, a memorandum for the purpose in the prescribed form, and may deliver the memorandum to the Registrar together with the prescribed fee.

Transfer of brands.

(2) Upon receiving a memorandum duly made and signed under subsection (1) of this section 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.

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

Ownership of brand exclusive.

Evidence.

27. 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.

Cancellation.

28. (1) The Registrar may cancel the registration of the ownership of any brand if—

(a) the owner applies for the cancellation of the brand or notifies the Registrar 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 three 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) of this subsection, 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 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, during that period of thirty 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) (a) In this subsection "decennial year" means the year one thousand nine hundred and seventy-two 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, the brand shall be regarded as an unallotted brand until re-allotted under the provisions of section 21 of this Act.

29. 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 sections 23 and 24 of this Act.

Record of transfers and cancellations.

PART V.—RULES OF BRANDING.

30. (1) Subject to subsection (4) of this section, every proprietor shall brand each of his horses and cattle with his registered brand—

Branding or earmarking cattle and branding horses.

- (a) if the run on which it is kept is situated in the South-West Land Division of the State as defined by section 28 of the Land Act, 1933 or in any part of the municipal

districts of the Shires of Dundas, Esperance, Westonia, Merredin or Ravensthorpe outside that Land Division—before it attains the age of six 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 eighteen months or is removed from the run, whichever first occurs.

(2) Nothing in subsection (1) of this section requires a foal or calf under the age of six months to be branded before it is removed from the run if, when it is so removed, it is still sucking, and accompanied by, its mother.

(3) It is sufficient compliance with subsection (1) of this section in its application to cattle, if cattle are 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 may, within such time specified in the foregoing provisions of this section for the branding or earmarking of cattle as is appropriate to the particular case, mark the cattle in the prescribed manner with his Breed Society mark, and thereupon no further branding or earmarking of the cattle is required by this Act while the cattle 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.

Earmarking
and brand-
ing of sheep.
Amended by
No. 75 of
1972, s. 4.

31. (1) Subject to subsections (4) and (6) of this section, every proprietor shall legibly earmark each of his sheep with his registered earmark before the sheep—

- (a) is weaned;
(b) attains the age of six months; or
(c) is removed from the run,

whichever first occurs.

(2) Subject to subsections (4) and (6) of this section, 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 paragraph (a) of subsection (1) of section 30 of this Act, 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 by No. 75 of 1972, s. 4.*]

(4) Subsections (1) and (2) of this section 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 forty-eight hours of the arrival of the lamb at the run to which it has been sent.

(6) The proprietor of any stud sheep may, within such time specified in subsection (1) of this section 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.

Branding of swine.

32. The proprietor of any swine shall not cause or permit any swine that has attained the age of ten 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 seven days before its removal from the run.

Marking of stud goats.

33. The breeder of any stud goat may, in lieu of tattooing the registered brand in the ear of the goat—

- (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.

Altered or defaced brands, etc.

34. (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 sheep or cattle 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.

Removal of unbranded stock, etc., from run.

35. 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.

35A. Except as provided by section thirty-six of this Act, the proprietor of any stock which have been imported into the State shall brand the stock within the time and in the manner prescribed.

Branding of imported stock.

Added by No. 75 of 1972, s. 5.

36. 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—

Stock already branded, etc.

- (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.

PART VI.—INSPECTORS.

37. (1) The Governor may appoint Inspectors of brands for the purposes of this Act.

Appointment and powers of Inspectors.

(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) of this section.

(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 authorized 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 sheep which are being removed by any person in contravention of the provisions of section 35 of this Act;
- (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;
- (g) exercise such other powers and carry out such other duties as are prescribed.

Offences.**38. Any person who—**

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

PART VII.—STRAYING AND UNBRANDED STOCK.

39. (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.

Proprietor may search for straying stock, etc.

(2) Any permission granted pursuant to subsection (1) of this section 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. 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.

Impounding of unbranded stock. Substituted by No. 75 of 1972, s. 6.

41. (1) Any person who impounds stock under section 37 or section 40 of this Act shall collect the stock and lodge them in a public pound, or, if there is no public pound within five 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.

Unbranded stock to be impounded in public pound or private stockyard, etc. Amended by No. 94 of 1972, s. 4, (as amended by No. 83 of 1973).

(2) Where stock are impounded pursuant to subsection (1) of this section 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.

Disposal of stock detained in public pound.

42. Where any stock impounded under this Act are lodged in a public pound maintained by a council under the provisions of Part XX of the Local Government 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 council maintaining that public pound.

Disposal of stock impounded in private stockyard.

43. (1) Where stock impounded under this Act are lodged in a private stockyard or other enclosure, the person impounding the stock shall, within forty-eight 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) of this section, 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 twelve 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) of this section 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
- (c) the remainder of the proceeds of the sale after deducting amounts paid under paragraphs (a) and (b) of this subsection shall be paid into the Consolidated Revenue Fund.

44. Notwithstanding the provisions of section 43 of this Act, 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.

Owner may obtain release of impounded stock.

45. Any person who purchases stock at a sale conducted pursuant to section 43 of this Act shall, within one month of the sale, brand the stock with

Purchaser of impounded stock to brand and earmark the stock.

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.

Waybill or other prescribed document to be made out for stock being moved.
Substituted by No. 75 of 1972, s. 7.

46. (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.

47. Any Police officer or Inspector may, at any hour of the day or night, inspect any travelling stock and the waybill which relates to the stock and may compare the number of, and the registered brands and earmarks appearing on, the travelling stock with those specified in the waybill.

Inspection of travelling stock and waybills.

48. Where, upon an inspection carried out pursuant to section 47 of this Act, 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.

Endorsement of waybill after inspection.

49. (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.

Special permits for travelling stock.

Amended by No. 75 of 1972, s. 8.

(2) An Inspector to whom an application is made in accordance with subsection (1) of this section, 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 authorizes 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) of this section, 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) of this section 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.

Offences.
Amended by
No. 75 of
1972, s. 9.

50. (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 of this Act.

(2) Any drover or carrier who—

(a) refuses on demand by a Police officer or stock Inspector to produce his waybill or the permit under section 49 of this Act for the stock; or

(b) refuses on demand to stop when ordered to do so by a Police officer or stock Inspector,

commits an offence.

PART IX.—MISCELLANEOUS.

Copies of
brand direc-
tory and
regulations
to be main-
tained.

51. 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; and

(b) all regulations in force under this Act,

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

52. 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.

Possession of unbranded stock.

53. (1) A person who takes delivery of a consignment of stock shall not, within six 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.

Brands not to be altered.

(2) A person shall not remove a registered eartag from any sheep that is on agistment away from the run of the owner of the sheep, and where any eartag on such a sheep is lost from the ear during agistment, only the tag of the lawful owner may be used in replacement of the lost eartag.

54. (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 horse or head of cattle or any cullmark or age mark;

(b) [*Deleted by No. 75 of 1972, s. 10.*]

(c) removes a registered tag from the ear of any sheep except as provided in paragraph (e) of subsection (1) of section 18 of this Act;

Defacing brands, etc. Amended by No. 75 of 1972, s. 10.

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- (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;
- (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 subparagraph (ii) of paragraph (a) of subsection (1) of section 18 of this Act,

commits an offence against this Act.

(2) It is a defence to any charge under paragraph (d) of subsection (1) of this section 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.

55. 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.

Evidence of proprietorship.

56. (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.

Transfer of brands to mortgagees.

(2) Notice of any deed or instrument referred to in subsection (1) of this section 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, 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) of this section 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.

Entries in
brand
directory.

57. 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 or
earmark
prima facie
evidence of
ownership.

58. 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.

Division of
State into
districts.

59. (1) 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, cattle or horses.

(2) Where, pursuant to subsection (1) of this section, 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 and brand directory 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.

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

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

61. Any person who commits an offence against this Act is liable on summary conviction— Penalties,
etc.

- (a) to a penalty of not more than two hundred dollars or not less than twenty dollars, irreducible in mitigation notwithstanding the provisions of any Act; or
 - (b) to imprisonment for six months,
- or to both such a fine and imprisonment.

62. (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. Regulations.

(2) The regulations may—

- (a) be of general or limited application, according to time, place or circumstance;

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- (b) impose upon any person or class of persons a discretionary authority;
- (c) prescribe penalties not exceeding one hundred dollars for any breach of the regulations.

SCHEDULE.

S. 4.

Brands Act, 1904-1969.

Droving Act, 1902-1954.
