

WESTERN AUSTRALIA

**STOCK (BRANDS AND MOVEMENT)
ACT 1970**

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WESTERN AUSTRALIA

STOCK (BRANDS AND MOVEMENT) ACT 1970

AN ACT to provide for the registration and use of Brands and Earmarks for Stock, to regulate the movement of Stock, to repeal the Brands Act 1904-1969 and the Droving Act 1902-1954, and for incidental and other purposes.

PART I—PRELIMINARY

Short title

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

Commencement

2. This Act shall come into operation on a date to be fixed by proclamation.¹

[3. *Section 3 repealed by No. 65 of 1984 s. 3.*]

Repeals

4. The Acts specified in the Schedule are repealed.

Interpretation

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, freezebrand, tattoo mark, eartag and any other identifying device approved by the Registrar for use as a brand, but does not

include a registered earmark or any age mark, cullmark, flock reference mark, private reference mark, or any mark used in connection with the control of stock diseases;

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

“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;

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

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

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

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

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

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

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

“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;

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

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

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

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

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

“stock” means any horse, cattle, sheep, swine 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.

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

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) apply, with such modifications and adaptations as are necessary, to earmarks registered under the repealed Act.

PART II—BRANDS

One brand and earmark for each run

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 and one registered earmark 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.

[Section 7 amended by No. 65 of 1984 s. 5.]

Use of brands and earmarks

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.

(2) Subject to subsection (2a), every proprietor of stock possessing a registered earmark shall use that registered earmark for all of his stock on which the use of that registered earmark is permitted or required pursuant to this Act.

(2a) Subsection (2) does not require a proprietor of goats possessing a registered earmark to use that registered earmark on any of his goats.

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

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

Brands and earmarks 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 2 letters and a numeral allotted by the Registrar and every earmark registered for sheep shall consist of a symbol or symbols allotted by the Registrar.

(3) A registered brand for sheep shall be applied as—

- (a) a firebrand burnt on the 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.

Brands, marks, and signs on wool of sheep 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) 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.

Additional earmarking of sheep

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.

Earmarking of sheep

12. For the purposes of this Act—

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

Brands and earmarks for cattle

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.

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

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

Brands for swine

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

[(2) repealed.]

(3) Subject to subsections (4) and (5), a registered brand for swine shall consist of an arrangement of 2 letters and a numeral, as allotted by the Registrar, and shall be applied as a tattoo.

(4) Where, pursuant to section 21 (2c) or (2d), the Registrar allots a registered brand consisting of an arrangement of numerals in arabic figures to a proprietor of swine the registered brand for all swine of that proprietor on and after the date of such allotment shall consist of the registered brand so allotted, and shall be applied as a tattoo.

(5) Notwithstanding subsection (3), on and after the appointed day² fixed under section 21 (2a), a registered brand for swine—

- (a) shall consist of 5 numerals in arabic figures as allotted by the Registrar;
- (b) shall be arranged in the manner approved by the Registrar; and
- (c) shall be applied as a tattoo.

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

Brands and earmarks for goats

15A. (1) Every proprietor of goats on any run situated wholly or partly in any part of the State specified in section 30 (1) (a) shall apply for, and obtain, a registered brand for goats and may, in addition, apply for, and obtain, a registered earmark for goats.

(2) A proprietor of goats to which subsection (1) does not apply may apply for, and obtain, a registered brand, or a registered earmark, for goats or both such a brand and earmark.

(3) Every brand registered under this Act for goats shall consist of an arrangement of 2 letters and a numeral, as allotted by the Registrar, and shall be applied as—

- (a) a firebrand burnt on the horns of the goat;
 - (b) a tattoo that is applied in the prescribed manner to an ear of the goat;
- or

- (c) an eartag that is of such colour or colours, type and shape as the Registrar determines.

[Section 15A inserted by No. 65 of 1984 s. 8.]

Private markings for goats, sheep and cattle

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

- (a) in the case of sheep or cattle, 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 goats or sheep, place on the appropriate ear of the goat or 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),

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

[Section 16 amended by No. 65 of 1984 s. 9.]

Legibility, size, and form of certain brands and earmarks

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

- (a) be clearly legible at all stages of the growth of the animal; and
- (b) when the animal is fully grown, be not less than the prescribed minimum size for such a brand.

(2) Every registered earmark on cattle shall—

- (a) be clearly legible at all stages of growth of the animal; and
- (b) when the animal is fully grown, measure not less, in any dimension, than the prescribed size for such an earmark.

(3) Any registered earmark on a goat or sheep shall be of the prescribed size for such an earmark.

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

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

Offences relating to branding and earmarking

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

[Section 18 amended by No. 65 of 1984 s. 11.]

PART III—REGISTRATION**Application**

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

[Section 19 amended by No. 65 of 1984 s. 12.]

Registrar, deputy registrars, and the register

- 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).

(2) Any deputy registrar shall be subject to the control and direction of the Registrar, but may, subject to any direction to the contrary from the Registrar, do any act or thing which by this Act the Registrar is required or permitted to do.

(3) The Registrar shall keep a register, in the form and manner prescribed, of all brands registered under this Act.

(4) The Registrar shall, upon receipt of an application by a person for information concerning any registered brand, furnish to the person such of the information sought as is contained in the register and, where a print of any such information or any part of the register is requested, the Registrar shall, upon payment of the prescribed fee, furnish the print as requested.

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

Applications for, and allocations of, brands

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

(2) Subject to this section, an applicant for a brand may insert in his application a list of combinations of any 2 letters and a numeral, any one of which he desires to have allotted to him, and the Registrar may allot to the applicant any of the combinations on the list that is at the time standing unallotted in the register, but if all the combinations contained in such list have been allotted, the Registrar may allot to the applicant the first unallotted brand standing in the register.

(2a) For the purposes of subsections (2b) and (2c) the Minister may by order published in the *Government Gazette*² declare a day not earlier than one month from the day on which the order is so published to be the appointed day.

(2b) The provisions of subsection (2) do not apply to or in relation to an application made on or after the appointed day for a brand for swine, and on and after that day an application for a brand for swine shall be made separately from any other application with respect to other stock of the applicant and the Registrar may thereupon allot to the applicant the first unallotted brand for swine consisting of an arrangement of a combination of 5 numerals in arabic figures standing in the register.

(2c) Notwithstanding that the appointed day has not been fixed by the Minister the Registrar may—

- (a) request any person who applies for a brand to make a separate application in respect of swine;

- (b) by notice in writing addressed to any person who is the proprietor of swine and to whom a brand has been allotted under this Act, or any Act repealed by this Act, request that person to apply within such time as is specified in the notice for a brand in the form and arrangement prescribed by subsection (2b),

and the provisions of subsection (2b) relating to the application for and the allotting of a brand for swine shall thereupon apply to any application for a brand for swine made by such a person.

(2d) Where the Registrar has, by notice pursuant to subsection (2c) (b) requested a person to apply for a brand and the person so requested fails to do so within the time specified in the notice the Registrar may allot to that person a brand containing an arrangement of numerals in arabic figures as prescribed by subsection (2b).

(2e) No fee is payable with respect to an application for or the allotting of a brand for swine pursuant to subsection (2c) (b) or for the allotting of a brand for swine pursuant to subsection (2d).

(3) When any run is situated partly in Western Australia and partly in South Australia or the Northern Territory of Australia, the Registrar may, on such terms and conditions as he considers necessary, allow the use of any South Australian or Northern Territory brand, as the case requires, for that run, if the use of that brand is not likely, in his opinion to cause confusion or to mislead.

(4) Subject to section 22, where the Registrar is satisfied that an application for a brand has been made in accordance with this Act, and has accordingly allotted a brand to the applicant in accordance with the preceding provisions of this section, the Registrar shall endorse on the application and record in the register particulars of that brand.

[Section 21 amended by No. 42 of 1978 s. 6.]

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

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

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.

[24. Section 24 repealed by No. 65 of 1984 s. 14.]

PART IV—TRANSFERS AND CANCELLATIONS

Transfer of brands

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.

(2) Upon receiving a memorandum duly made and signed under subsection (1) and the prescribed fee, the Registrar shall—

- (a) cancel the original registration of the brand to which the memorandum relates; and
- (b) register that brand in the name of the transferee,

and thereupon such transferee shall be the owner of the registered brand for the purposes of this Act.

Ownership of brand exclusive

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

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 3 months next after service of the notice, the owner shows cause why the registration should not be cancelled to the Registrar, and, within that period, he receives a response to the notice claiming to show cause for reasons which the Registrar regards as not being satisfactory; or

- (c) having served notice on the owner as provided in paragraph (b), and having received no response to the notice, the Registrar causes to be published in a newspaper circulating in the locality of the run or farm, shown in the register as that for which the brand is required to be used, a further notice that registration will be cancelled unless, within a period of 30 days next after the day of the appearance of the further notice in the newspaper, the owner shows cause why the registration should not be cancelled, and, during that period of 30 days, the Registrar—
- (i) receives a response to the further notice claiming to show cause for reasons which the Registrar regards as not being satisfactory; or
 - (ii) does not receive any response at all to the further notice.

(2) (a) In this subsection “decennial year” means the year 1972 and every tenth year thereafter.

(b) The Registrar may, whether he does or does not comply with the provisions of subsection (1) 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 3 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.

Record of transfers and cancellations

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

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

PART V—RULES OF BRANDING

Branding or earmarking cattle and branding horses

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

- (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 6 months or is removed from the run, whichever first occurs;

(b) if the run on which it is kept is situated elsewhere in the State—before it attains the age of 18 months or is removed from the run, whichever first occurs.

(2) Nothing in subsection (1) requires a foal or calf under the age of 6 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) 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.

(5) The proprietor of any stud horse may, within such time as is specified in this section for the branding of horses, mark the horse in the prescribed manner with his Breed Society mark, and thereupon no further branding of the horse is required by this Act.

[*Section 30 amended by No. 30 of 1979 s. 4.*]

Earmarking and branding of sheep

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

- (a) is weaned;
- (b) attains the age of 6 months; or
- (c) is removed from the run,

whichever first occurs.

(2) Subject to subsections (4) and (6), every proprietor of sheep shall—

- (a) if the run on which the sheep are kept is situated in any part of the State specified in section 30 (1) (a), brand each of his sheep with his registered brand—
 - (i) forthwith after the sheep is shorn for the first time; or
 - (ii) before the sheep is removed from the run,whichever first occurs; or

- (b) if the run on which the sheep are kept is situated elsewhere in the State, brand each of his sheep with his registered brand before the sheep is removed from the run.

[*(3) repealed.*]

(4) Subsections (1) and (2) do not apply so as to require—

- (a) the earmarking or branding of a sucker lamb that is being removed from the run and is accompanied by its mother; or
- (b) the branding of a lamb being removed from the run if the lamb is consigned for slaughter.

(5) Where a lamb—

- (a) that was consigned for slaughter and removed from the run is not branded;
- (b) is not slaughtered but is sent to a run other than the run from which it was so consigned for slaughter,

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

(6) The proprietor of any stud sheep may, within such time specified in subsection (1) for the earmarking of sheep as is appropriate to the particular case—

- (a) tattoo his Breed Society mark followed by a flock reference number on the same ear of the sheep as would normally carry the registered earmark;
- (b) firebrand the sheep with his registered brand or his Breed Society mark; or
- (c) earmark the sheep with his registered earmark,

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

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

Branding of swine

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

Branding or earmarking goats

33. (1) Subject to this section, every proprietor shall brand each of his goats kept on a run situated wholly or partly in any part of the State specified in section 30 (1) (a) with his registered brand before the goat—

- (a) is weaned;
- (b) attains the age of 6 months; or
- (c) is removed from the run,

whichever first occurs.

(2) Nothing in subsection (1) requires a young goat to be branded before it is removed from the run if—

- (a) it has not then attained the age of 6 months nor been weaned; and
- (b) it is being removed from the run accompanied by its mother.

(3) The proprietor of any stud goat may, within the time specified in subsection (1) in relation to branding—

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

and thereupon no further branding of the goat is required by this Act.

[Section 33 substituted by No. 65 of 1984 s. 15.]

Altered or defaced brands or earmarks

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 goat, 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.

[Section 34 amended by No. 65 of 1984 s. 16.]

Removal of unidentified stock 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.

Branding of imported stock

35A. Except as provided by section 36 the proprietor of any stock which have imported into the State shall brand the stock within the time and in the manner prescribed.

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

Stock already branded or earmarked

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—

- (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**Appointment and powers of Inspectors**

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

(2) A person who was, immediately before the coming into operation of this Act, an Inspector appointed under the repealed Act, shall be deemed to have been appointed an Inspector of brands under subsection (1).

(3) An Inspector or Police officer may—

- (a) enter upon any part of any run and search for and inspect any stock or branding iron or any other instrument for branding or earmarking stock;
- (b) seize and destroy any branding iron or other instrument for branding or earmarking stock other than one 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;
- (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

Proprietor may be permitted to search for straying 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.

(2) Any permission granted pursuant to subsection (1) shall be in writing and signed by the justice, and shall specify such conditions as the justice thinks fit, and subject to compliance with those conditions, the person to whom permission has been granted may enter such run with the necessary assistants, vehicles or horses and collect and remove all branded stock thereon of which he is the proprietor.

Impounding of unidentified stock

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.

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

Detention of impounded stock

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

(2) Where stock are impounded pursuant to subsection (1) in a private stockyard or other enclosure—

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

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

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 48 hours, furnish a justice with a written statement of the number and description of the stock impounded and of the locality from which they were collected.

(2) Upon receiving a written statement pursuant to subsection (1), the justice may order that the stock be sold by any person whom he appoints for the purpose on such day, not being less than 12 days after the delivery to him of the written statement, as he so orders.

(3) Every sale of impounded stock carried out pursuant to this section shall take place at such place as a justice directs or, if he has not so directed, at the Police station nearest to the private stockyard or enclosure where the stock have been impounded and the person conducting the sale shall record in a register full particulars of the stock sold at the sale and the prices for which they were sold and shall, upon completion of the sale, deliver the register to the justice who ordered the sale.

(4) A justice to whom a register has been delivered pursuant to subsection (3) shall permit any person wishing so to do to inspect the register at any reasonable time.

(5) A justice who has ordered the sale of any stock pursuant to this section, or a person who has impounded stock ordered to be sold by a justice pursuant to this section, shall not personally or by an agent, purchase or offer to purchase any of the stock so sold.

(6) Where any stock are sold pursuant to an order of a justice made pursuant to this section—

- (a) there shall be paid out of the proceeds of the sale the reasonable expenses incurred by the owner of the private stockyard or enclosure or the person impounding the stock, or both of those persons, as the case requires, of impounding, collecting, handling, maintaining and caring for the stock;
- (b) there shall be paid out of the proceeds of the sale all reasonable expenses incurred in the sale of the stock; and
- (c) the remainder of the proceeds of the sale after deducting amounts paid under paragraphs (a) and (b) shall be paid into the Consolidated Revenue Fund.

Owner may obtain release of impounded stock

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

Purchaser of impounded stock to brand and earmark the stock

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

PART VIII—MOVEMENT OF STOCK

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

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.

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

Inspection of travelling stock and waybills

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.

Endorsement of waybill after inspection

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

Special permits for travelling stock

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.

(2) An Inspector to whom an application is made in accordance with subsection (1), may upon being satisfied that the application is made in good faith, issue to the applicant a special permit, subject to such terms and conditions, if any, as are specified therein.

(3) Until it is cancelled by an Inspector, a special permit 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), the person to whom that permit was issued or the drover of travelling stock having custody of the permit, shall, upon demand by an Inspector, forthwith deliver up the cancelled permit to the Inspector.

(6) Where a permit has been cancelled pursuant to subsection (4) an Inspector may at any time issue a fresh permit in place of the cancelled permit, subject to such terms and conditions as the Inspector thinks fit and specifies in the permit.

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

Offences

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.

(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 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.

(3) Notwithstanding anything in this section, a drover or carrier does not commit an offence against this Act if he moves stock pursuant to a direction given by the proprietor or other person for the time being having the custody and control of stock prescribed for the purpose of this section, if the drover or carrier has in his possession and produces upon request made by a Police officer or stock Inspector a note in the form approved by the Director containing such entries as are required by the form.

(4) Where a drover or carrier complies with a direction referred to in subsection (3) and delivers to the consignee of the stock moved pursuant to that direction a copy of the note referred to in subsection (3), the drover or carrier, as the case may be, is entitled to recover his charges for the movement of the stock.

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

PART IX—MISCELLANEOUS

[51. Section 51 repealed by No. 42 of 1978 s. 9.]

Possession of stock not branded or earmarked as required

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.

Brands and earmarks not to be altered or removed

53. (1) A person who takes delivery of a consignment of stock shall not, within 6 months of so taking delivery, remove any registered brand that is upon the stock at the time of so taking delivery, but nothing in this subsection shall be construed as preventing a person from removing a registered brand in the form of a woolbrand from sheep in the ordinary course of shearing the sheep and branding the sheep after shearing with his registered brand or from re-branding with his registered brand any sheep on which the woolbrand had become illegible prior to the time of his taking delivery of the sheep.

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

[Section 53 amended by No. 65 of 1984 s. 17.]

Marking of spayed bovine females

53A. A person who is the proprietor of a spayed bovine female animal shall mark it or cause it to be marked in the manner prescribed by the regulations.

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

Marking of prescribed stock

53B. A person who is the proprietor of stock prescribed for the purposes of this section may, and if required by regulation shall, cause it to be marked in the manner prescribed by the regulations.

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

Offences relating to brands and marks

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.]

- (c) removes a registered eartag, not his registered eartag from the ear of any goat or sheep except as provided in section 18 (1) (e);
- (d) has in his possession the skin of any sheep from which the ears or portion of the ears have been removed, except where—
 - (i) the portion of the ear or the portions of ears, as the case may be, have been removed in the course of the lawful branding or earmarking of the sheep; or
 - (ii) the ear or ears have been removed from the skin immediately prior to the subjecting of the skin to a tanning process or to the export of the skin;
- (e) has in his possession any skins of any sheep the ears of which have been cropped, cut, sliced or otherwise mutilated to which he cannot prove ownership;
- (f) marks any stock on the ear or wilfully mutilates, crops, slices or in any other manner cuts the ear of any stock, except as required or permitted by this Act; or
- (g) has in his possession any stock which has been branded or earmarked contrary to section 18 (1) (a) (ii),

commits an offence against this Act.

(2) It is a defence to any charge under subsection (1) (d) if the defendant proves that—

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

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

Evidence of proprietorship

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.

Transfer of brands or earmarks to mortgagees

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.

(2) Notice of any deed or instrument referred to in subsection (1) and renewal of notice before the expiration of each period of 3 years the first of which commences with the original notice, may be given to the Registrar and if so given shall be entered in the register, and no transfer of, or other dealing with, the brand or earmark to which the deed or instrument relates shall be registered before the withdrawal or cancellation of registration of such notice or renewal, without the prior consent of the mortgagee.

(3) The mortgagee under a mortgage referred to in subsection (1) may execute a transfer of any brand or earmark referred to in the mortgage, and the registration of such transfer shall, for all purposes and as against all persons, except between the owner and mortgagee, be conclusive as to the right of the mortgagee to effect such transfer.

(4) For the purposes of this section, the term "mortgage" means any deed, memorandum, or other instrument whereby security for payment of money is granted over any stock, and all charges and liens given or created by any statute as a security for payment of money, and the term "stock" includes the progeny thereof.

Certificate to be *prima facie* proof

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

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

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 2 or more districts for the purposes of this Act, so far as it relates to the branding of goats, sheep, cattle or horses.

(2) Where, pursuant to subsection (1), the State has been divided into districts in relation to one or more classes of stock, the Registrar may register any brand or earmark for use on the appropriate stock by the owner thereof exclusively in any such district, and in that event—

- (a) the certificate of registration of any brand or earmark and the register shall indicate the district in which a brand or earmark may be used by the owner thereof;
- (b) an owner using a brand or earmark upon any stock outside the district within which the brand may be used shall be guilty of an offence against this Act; and
- (c) the Registrar may refuse to register any brand or earmark for use in any district where, in his opinion, such a brand or earmark is likely to cause confusion or mislead by reason of a similar brand or earmark being registered for use in an adjoining district.

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

Offences

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

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

Penalties

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

- (a) to a penalty of not more than \$500 or not less than \$20 irreducible in mitigation notwithstanding the provisions of any Act; or
 - (b) to imprisonment for 6 months,
- or to both such a fine and imprisonment.

[Section 61 amended by No. 9 of 1980 s. 3.]

Regulations

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.

(2) The regulations may—

- (a) be of general or limited application, according to time, place or circumstance;
- (b) impose upon any person or class of persons a discretionary authority;
- (c) prescribe penalties not exceeding \$100 for any breach of the regulations.

Schedule

Brands Act 1904-1969.
 Droving Act 1902-1954.

NOTES

¹. This reprint is a compilation as at 16 July 1986 of the *Stock (Brands and Movement) Act 1970* and includes all amendments contained in the Acts referred to in the following table.

Table of Acts

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Stock (Brands and Movement) Act 1970</i>	116 of 1970	10 December 1970	1 July 1972 (See <i>Gazette</i> 30 June 1972 p. 2101)	
<i>Stock (Brands and Movement) Act Amendment Act 1972</i>	75 of 1972	16 November 1972	1 October 1973 (See <i>Gazette</i> 14 September 1973 p. 3438)	
<i>Metric Conversion Act 1972</i> (as amended by Act No. 83 of 1973)	94 of 1972	4 December 1972	Relevant amendments effective from 22 March 1974 (See <i>Gazette</i> 22 March 1974 p. 966)	

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Stock (Brands and Movement) Act Amendment Act 1978</i>	42 of 1978	29 August 1978	Sections 4, 6 and 10: 22 December 1978 (See <i>Gazette</i> 22 December 1978 p. 4772) Balance 20 November 1981 (See <i>Gazette</i> 22 November 1981 p. 4718)	
<i>Stock (Brands and Movement) Act Amendment Act 1979</i>	30 of 1979	3 October 1979	7 December 1979 (See <i>Gazette</i> 7 December 1979 p. 3771)	
<i>Stock (Brands and Movement) Amendment Act 1980</i>	9 of 1980	8 October 1980	8 October 1980	
<i>Stock (Brands and Movement) Amendment Act 1984</i>	65 of 1984	5 November 1984	Section 15: 1 May 1986; balance 1 February 1986 (See <i>Gazette</i> 17 January 1986 p. 182)	
<i>Stock (Brands and Movement) Amendment Act (No. 2.) 1984</i>	91 of 1984	29 November 1984	27 December 1984	

². Order published in *Gazette* on 10 July 1981, p. 2786 declaring 30 November 1981 to be the appointed day.