

CHAPTER 19:03

BRANDS ACT

Ord. 4/1900, 1/1908; Acts 1/1930, 37/1938 (s. 3), 10/1951, 29/1951 (s. 2), 52/1954 (s. 2), 69/1971, 38/1972, 1/1976, 22/2001 (s. 4); R.G.N. 500/1962.

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AN ACT to amend the law with reference to the branding of stock.

[Date of commencement: 23rd November, 1900.]

1 Short title

This Act may be cited as the Brands Act [*Chapter 19:03*].

2 Interpretation

In this Act—

“brand” means any mark made or placed on any horse, cattle, sheep or goat for any purpose whatsoever and includes any representation of a mark intended so to be made or placed on any such animal as the circumstances may require but does not include—

- (a) any mark made or placed on the horn or hoof;
- (b) any mark made with paint on any horse, cattle, sheep or goat;
- (c) any earmark;
- (d) any clasp, rivet or tag attached to the ear or any mark made on such clasp, rivet or tag;
- (e) any tattoo on any horse, cattle, sheep or goat;
- (f) any trade mark registered in terms of the Trade Marks Act [*Chapter 26:04*];
- (g) any other mark which the Minister may, by statutory instrument, declare not to be a brand for the purposes of this Act;

“Brand Directory” means the list of the brands compiled by the Registrar and published by authority;

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

“fees” means any fees, rates or charges which any person may be liable to pay under this Act;

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

“Minister” means the Minister of Home Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“proprietor” means the registered proprietor of any brand;

“register” means a book containing a list of the brands registered with the Registrar;

“Registrar” means the Registrar of Brands appointed for the purposes of this Act.

3 Appointment of officers

The Minister may appoint an officer or officers to exercise under this Act the functions of—

- (a) the Registrar;

(b) deputy registrars for certain districts or groups of districts who shall be subordinate to the Registrar for the purposes of this Act;
and may also by notice in the *Gazette* determine the place or places at which shall be situate the offices of the Registrar or deputy registrars.

4 Registers

The Registrar shall keep separate registers for the registration of brands of—

- (a) horses;
- (b) cattle;
- (c) sheep and goats.

5 Application for registration of brands

An owner of any such animals as are referred to in section *four* may deposit the prescribed fee and make application in writing to the Registrar, or the deputy registrar of the district in which he resides, to be registered as the proprietor of a brand; such brand may be separate in respect of any one or more of such classes of animals.

6 Certificate of receipt of application and fees

The Registrar or deputy registrar, upon receiving any such application and payment of the prescribed fees, shall send to the applicant a certificate of such receipt.

7 Brands to be allotted by Registrar

No person shall have the right of claiming to have any special form or design of brand allotted to him but any person requiring a brand shall, on application and on payment of the prescribed fee, have a brand allotted to him by the Registrar.

8 When registration completed, certificate to be forwarded to applicant

The Registrar shall forward to every applicant a certificate of registration so soon as the registration is completed.

9 Brand Directory

As soon as may be after the 31st December in each year the Registrar or such other officer as the Minister may appoint shall compile a Brand Directory containing a correct and complete list of all registered brands and of the names and residences of all proprietors registered up to that date.

10 Transfer of brand

Any proprietor may cede and transfer his right to any registered brand to any other person, in such form as may be prescribed. Such transfer shall only have validity when registered by the Registrar upon payment of such fee as may be prescribed. Every person receiving such cession and transfer shall, after the due registration thereof, be entitled to a certificate thereof under the hand of the Registrar.

11 Penalty for imposing registered brand on animals without authority

Any person, not being the proprietor of any brand in any district and not acting with the authority of such proprietor, who imposes or causes to be imposed upon any horse, cattle, sheep or goat, as the case may be, any such registered brand, shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Section as amended by section 4 of Act No. 22 of 2001]

12 Penalty for altering or obliterating registered brand

Any person, not being the owner of any livestock and not acting with the authority of such owner, who in any way alters or obliterates any registered brand lawfully made or placed on such livestock shall be guilty of an offence and liable to a fine not exceeding five hundred dollars or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

13 Certificate of Registrar may be accepted at trial of stock thefts

On the trial of any person for the theft of any horse, cattle, sheep or goat or for receiving such horse, cattle, sheep or goat or any part or portion thereof, knowing the same to have been stolen, it shall be competent for the prosecution to adduce evidence that the brand upon the animal alleged to have been stolen is the registered brand of the person alleged to be the owner of such animal or of some person through or from whom such owner derived his right to such animal, and a certificate under the hand of the Registrar shall constitute *prima facie* proof of the facts therein alleged.

14 Onus of proof to rest upon accused

On the trial of any such person as aforesaid who has been apprehended in possession of any animal branded with any registered brand, upon proof being given of the ownership of such animal and that a theft has been committed, the onus of proof that such animal was fully or innocently in his possession shall rest upon the accused person.

15 Suspension of Act

The President may, by statutory instrument, suspend the operation of this Act in one or more districts or in any area comprising a portion of a district or portions of more districts than one; and may put this Act into operation thereafter in any area wherein it may have been so suspended or in any portion of such area.

16 Penalty for marking with unregistered brand

Any owner of an animal of a class in respect to which a brand may be registered who marks any such animal with any brand not duly registered as his brand under this Act shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Section as amended by section 4 of Act No. 22 of 2001]

17 Re-registration of brands

(1) The Minister may from time to time, by notice in the *Gazette*, direct the re-registration of all brands registered in terms of this Act within such period as may be specified in the notice.

(2) Where the Minister has made a direction in terms of subsection (1), every person who is the owner of a registered brand shall cause the re-registration of that brand within the period specified in the notice and in such manner and on payment of such fees as may be prescribed.

(3) Upon the expiry of the period specified for the re-registration of brands in a notice referred to in subsection (1), the Registrar shall cancel the registration of every registered brand that has not been re-registered within that period.

(4) After the cancellation of any registered brand in terms of subsection (3) for the period of ten years next following the date of such cancellation the brand shall not be registered or re-registered.

18 Regulations

(1) The Minister may, by regulation, provide for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be provided for in order to carry out or give effect to the provisions of this Act.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) the forms in which applications for and certificates of registration shall be made;
- (b) the form and manner of giving any notice required but not specially provided for by this Act;
- (c) the fees to be paid under this Act;
- (d) the form in which any cession or transfer of the right to any registered brand shall be effected;
- (e) the size of any brands entitled to registration, the portions of the body on which animals of the several classes shall respectively be branded and the order in which different brands shall be imposed;
- (f) the system and procedure to be observed by the Registrar in allotting brands;
- (g) the periodical re-registration of brands;
- (h) the compilation of a new brands register of re-registered brands.

(3) Regulations made in terms of subsection (1) may provide penalties for any breach thereof, but no such penalty shall exceed a fine of level five or imprisonment for a period of six months or both such fine and such imprisonment.

[Subsection substituted by section 4 of Act No. 22 of 2001]

19 Savings

Any brand registered under any law in force on the 22nd November, 1900, shall be deemed to have been registered under this Act.