

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1919.

A BILL

To provide for the better regulation of the branding of horses, asses, and mules, and the branding and earmarking of cattle and certain other animals; to repeal Part VI of the Stock Act, 1901; and for purposes incidental thereto or consequent thereon.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
5 the same, as follows:—

1. This Act may be cited as the "Registration of Short title.
Stock Brands Act, 1919," and is divided into Divisions,
as follows:—

DIVISION 1.—*Preliminary.*

DIVISION 2.— <i>Registrar of brands.</i>	
DIVISION 3.— <i>Cancellation of existing brands.</i>	
DIVISION 4.— <i>Brands.</i>	
DIVISION 5.— <i>Registration of brands.</i>	
DIVISION 6.— <i>Registration of cattle earmarks.</i>	5
DIVISION 7.— <i>Regulations.</i>	
DIVISION 8.— <i>Offences and penallies.</i>	
DIVISION 9.— <i>Miscellaneous.</i>	

DIVISION 1.—*Preliminary.*

2. (1) Part VI of the Stock Act, 1901, is hereby 10 repealed.

(2) All persons appointed under Part VI of the Stock Act, 1901, and holding office at the time of the passing of this Act, shall be deemed to have been appointed hereunder. 15

(3) All moneys standing to the credit of any account established or kept under Part VI of the Stock Act, 1901, shall, on the passing of this Act, be transferred to the corresponding accounts mentioned in this Act. 20

Saving section.

(4) All brands registered under the Registration of Brands Act of 1866, or Part VI, Stock Act, 1901, shall be deemed to have been registered under this Act.

(5) Every brand directory compiled and published under the Registration of Brands Act of 1866 or Part VI, 25 Stock Act, 1901, and every alphabetical list of brands published in the Gazette under any of the said Acts, shall be deemed to have been compiled and published under this Act.

Interpretation.

3. In this Act, unless the context or subject matter 30 otherwise indicates or requires,—

“Brand” means an impression of any letter, numeral, sign, or character, or combination of any two or more of these, branded on any horse or cattle by means of a fire-branding 35 instrument.

“Brand directory” means the list of the brands of horses and cattle, and the earmarks of cattle, 35 compiled

- compiled by the registrar of brands, and published by the Government Printer, whether in the shape of a brand directory or of monthly lists in the Gazette.
- 5 "Cattle" includes any bull, cow, ox, heifer, steer, calf, camel, or dromedary.
- "Distinctive brand" means any numeral or numerals branded on any horse or cattle to denote its age or class.
- 10 "Fees" means any fees, rates, or charges which any person may be liable to pay under this Act or the regulations.
- "Hide" means hide or skin of any horse or cattle.
- "Horse" means any horse, mare, gelding, filly, 15 ass, jennet, or mule.
- "Justice" means any justice of the peace.
- "Premises" includes any building, land, vehicle, ship, vessel, or place.
- "Prescribed" means prescribed by this Act or the 20 regulations.
- "Proprietor" means the registered proprietor of any brand or mark.
- "Register" means the register containing a list of the brands and earmarks registered with the 25 registrar of brands.
- "Registered" means registered under this Act.
- "Registrar" means the registrar of brands.
- "Regulations" mean regulations under this Act.
- "Residence" means the residence, house, home- 30 stead, or head station of any proprietor.
- "Run" means any run, station, farm, freehold, or leasehold where horses or cattle are kept or depastured.
- 35 "Stock" means any horses or cattle as above defined.

DIVISION 2.—Registrar of brands.

4. (1) The chief inspector of sheep shall be registrar of brands, and shall possess the powers and perform the duties belonging to such office for the whole of New 40 South Wales. Registrar of
brands—
his deputies.
- (2)

(2) The Governor may appoint one or more deputy registrars, whose acts, under the direction of the registrar of brands, shall have the same force and effect as if done by him.

5. (1) The registrar shall keep a register for the registration of the brands of horses and of cattle, and the earmarks of cattle, and all brands and earmarks registered with him shall be respectively entered therein, with the names and addresses of their proprietors.

(2) Such register shall be named and known as the "Horse and Cattle Brands Register for New South Wales," and shall be kept in the manner prescribed.

DIVISION 3.—*Cancellation of existing brands.*

Cancellation
of existing
brands.

6. (1) Every registration of brands under Part VI of Stock Act, 1901, in force at the commencement of this Act, shall, upon the expiration of a period to be fixed by a proclamation of the Governor published in the Gazette, be deemed to be cancelled as from the date of such expiration. But such cancellation shall not affect the right to the ownership of any stock branded with any brand prior to the cancellation of such brand.

Rights of
proprietors
of existing
brands.

(2) Any proprietor of a brand duly registered under the Act mentioned in the preceding subsection the registration of which is in force at the commencement of this Act, shall have a prior right to have the same re-registered with such alteration as may be duly made in the same, if he makes application in the prescribed form before the expiration of the period aforesaid and pays the prescribed fee.

DIVISION 4.—*Brands.*

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Only one
brand to be
used by same
proprietor
under
penalty.

7. (1) The owner or occupier of any run, or of more runs than one, if such runs are contiguous to each other, shall use only one and the same brand for stock on such run or runs.

(2) The owner or occupier of more runs than one, where such runs are not contiguous to each other, may use one and the same brand for stock on each and every of such runs.

(3)

(3) If there are stock of more than one person upon the same run, the person or persons owning such stock may register a brand, in addition to the brand of the owner or occupier of the run.

5 (4) The owner or occupier of any run offending against the provisions of this section shall, for every such offence, be liable to a penalty not exceeding *twenty* pounds.

8. (1) The brand for stock shall be not less than two Size of brand. 10 inches in length, and where a brand consists of more letters, numerals, signs, or characters than one, such letters, numerals, signs, or characters shall be not less than three-quarters of an inch apart from each other.

15 (2) A distinctive brand shall not be placed on any portion of an animal which is prescribed for the placing of a registered brand.

(3) Any person applying for the registration of a brand of which the publication in the Gazette demands special type shall, for such type, pay such fee as may be 20 prescribed.

(4) Any person failing to comply with any requirement of this section shall, for every such offence, be liable to a penalty not exceeding *ten* pounds.

9. (1) All stock shall be branded upon such portions Mode of branding. 25 of the body as may be prescribed, and each succeeding brand, other than upon the same portion of the body, shall be in the order prescribed.

30 (2) Every succeeding brand on the same portion shall be lower than and not less than two inches apart from the immediately preceding brand, and stock shall be deemed to be branded with the particular brand which appears to be the last in order upon such stock according to the order hereinbefore prescribed.

35 (3) Any person failing to comply with any requirement of this section shall for every such offence be liable to a penalty not exceeding *fifty* pounds.

DIVISION 5.—*Registration of brands.*

Brands to be registered.

10. (1) Every person who uses or intends to use a brand shall register the same with the registrar.

(2) Any person who uses, or attempts, directs, or permits to be used a brand of which he is not the proprietor, or who has in his possession any instrument commonly used for the making of any such brand, shall, for every such offence, be liable to a penalty not exceeding *fifty* pounds. 5

Mode of registration—application.

11. (1) Every person intending to register his brand shall forward to the registrar an application in the form prescribed together with the prescribed fees for the registration thereof. 10

(2) In every case where one person makes an application to register a brand, and no other person makes an application to register a similar brand, the registrar shall cause the name and residence of the applicant and a description of his brand to be notified in the Gazette. 15

(3) If within one month from the date of such notification of such brand no objection is made by any other person on account of his being the proprietor of a similar brand to that notified as aforesaid, the brand so notified shall be deemed to be the brand of such applicant, and shall be registered accordingly. 20

(4) When the registrar receives applications from different persons to register the same brands, or to register a brand which has already been registered, he shall, in writing, notify the applicants to that effect, and shall at the same time offer such applicants other brands. 25 30

Within one month from the receipt of such notification the applicants shall inform the registrar whether or not they are satisfied with the brands so offered. Any brands so offered with which any applicant is satisfied shall be registered. 35

If any applicant is dissatisfied with any brand so offered he shall make application in the prescribed form for the registration of another brand, and forward together with such application a fee of one shilling.

If

If any applicant fails within one month of the receipt of such notification to inform the registrar that he is dissatisfied with the brand so offered, such brand shall be registered as his brand.

5 (5) Notwithstanding anything in this Act, the registrar may allot to any agricultural or kindred society or stock breeders association for specific purposes a brand to be used for a special object in connection with the working of such society or association, and such
10 brand shall only be used on such portions of the body of the animal as the registrar may direct.

12. Every application for the registration of any brand or earmark shall be numbered and entered by the registrar in the order in which it is received, and the
15 registrar on receipt of any such application together with the prescribed fee in connection therewith, shall send to the person making such application a certificate of receipt in the form prescribed. Order of registration.

13. At the end of each month of the year the registrar of brands shall prepare a list in the form
20 prescribed of the brands and earmarks and of the names and residences of their respective proprietors registered during the preceding month as aforesaid, and shall publish the same in the Gazette. Monthly list of brands to be published.

25 **14.** Upon every such brand and earmark being duly published in the Gazette as aforesaid, such registrar shall transmit to the proprietor thereof a certificate of registration in the form prescribed. Certificate of registration.

15. Immediately after the thirty-first day of December of each year the registrar of brands shall compile
30 and publish a brand directory for New South Wales containing a correct and complete list of all brands and earmarks and of the names and residences of their respective proprietors so registered by him up to that date in
35 the form prescribed. Annual list of brands.

16. (1) When any brand or earmark which has been registered under this Act is intended to be transferred the registered proprietor thereof and the intending transferee shall execute a joint memorandum in the
40 form prescribed, and on the receipt of such memorandum duly executed as aforesaid and the prescribed fees for
for

for such intended transfer, the registrar shall cancel the existing registration of such brand or earmark by the transferrer and shall register the same in the name of the transferee, and shall issue a certificate to him in the form prescribed, and such transferee shall thereupon be and be deemed to be the registered proprietor of such brand or earmark. 5

(2) The transferee of any registered brand or earmark using any such brand or earmark before the transfer of the same has been registered as hereinbefore provided shall for every such offence be liable to a penalty not exceeding *fifty* pounds. 10

Brands and marks become cancelled on death of proprietor.

17. If any proprietor of a registered brand or earmark dies without having made such transfer, the property in such brand and earmark shall vest in his legal personal representatives for a period of six months after such death. Before the said period elapses such representatives shall, in writing, notify the registrar whether or not they desire to retain the brands and earmarks, and if they do so desire on whose behalf the retention is to be made. They shall, if they notify that they desire the brands and earmarks to be retained, forward to the registrar with such notification the prescribed particulars, together with the prescribed fee for recording and publishing such brands and earmarks. 15 20 25

Any brand or earmark in respect of which the registrar does not within the said period receive such notification, and the prescribed particulars and fee, shall be cancelled and available for reallocation.

Brands and marks out of use may be cancelled and reallocated.

18. Upon the registrar being satisfied that any brand or earmark has become out of use owing to the proprietor having ceased to require the brand or earmark, or in the case of a company, firm, or partnership, such company, firm, or partnership having become dissolved, the registration of such brand or earmark shall be cancelled forthwith, and the cancellation thereof shall be duly notified in the Gazette. 30 35

DIVISION

DIVISION 6.—Registration of cattle earmarks.

19. (1) Any proprietor of a cattle brand may apply on the form prescribed to the registrar for registration of an owner's earmark. Any such application shall be accompanied by the prescribed fees.

Owner's
earmarks
for cattle.

(2) An owner's earmark, when allotted, shall be made on the left ear of male cattle and the right ear of female cattle.

(3) The owner's earmark shall be subject to the same conditions as to transfer and cancellation as provided in respect of brands.

(4) If any proprietor of a brand transfers such brand, but does not transfer his registered earmark, the registrar shall cancel such earmark, and such earmark will thereupon become available for reallocation.

DIVISION 7.—Regulations.

20. (1) The Governor may make regulations for the purpose of carrying out the provisions of this Act, and in particular with respect to the following matters :—

Regulations.

- 20 (a) Cancellation of brands.
- (b) Registration, re-registration, and transfer of brands and earmarks and notifications of changes of address of proprietors of brands and earmarks.
- 25 (c) The construction of branding instruments and earmarking pliers.
- (d) Order of branding and procedure in connection therewith.
- (e) Distinctive branding of stock.
- 30 (f) Earmarking of cattle.
- (g) Fees to be paid.
- (h) Duties of the registrar and deputy-registrars of brands.
- (i) Books and forms.
- 35 (j) Gazettals and directories.

The Governor may in those regulations provide for the imposition of any penalty not exceeding *fifty* pounds for any breach of the same.

- (2) Such regulations shall—
- (i) be published in the Gazette ;
 - (ii) take effect from the date of publication, or from a later date to be specified in such regulations ; and 5
 - (iii) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. If either House of 10 Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon 15 cease to have effect.

DIVISION 8.—*Offences and penalties.*

False entry,
&c., to be
deemed a mis-
demeanour.

21. Any registrar of brands, deputy-registrar, or other person who—

- (a) knowingly and unlawfully inserts, or causes or permits to be inserted, any false entry of any 20 matter relating to any brand or earmark in any register, certificate, brand, or earmark directory, or list of brands or earmarks, or in any extract from any register, certificate, brand, directory, or list of brands or earmarks ; or 25
- (b) forges or alters, or offers, utters, disposes of, or puts off, knowing the same to be forged or altered, with intent to defraud, any such register, certificate, directory, or list, or any extract or entry ; or 30
- (c) wilfully and unlawfully destroys, defaces, injures or alters, or causes to be destroyed, defaced, injured, or altered, any such brand register, certificate, directory, list, extract, entry, or any part thereof with such intent ; or 35
- (d) has in his possession or uses the brand or earmark of any proprietor without his authority ; or
- (e)

- (e) disfigures, alters, or defaces any registered brand or earmark branded or marked upon any cattle or horses or hides of the same, shall be liable to a penalty not exceeding *one hundred* pounds.

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22. (1) In any case where reasonable grounds exist for suspecting that an offence against this Act has been committed in respect of branding or earmarking instruments or hides, any police officer, upon his own initiative
10 or at the request of the registrar or of a deputy-registrar of brands—

Powers of police entry on any run or premises.

- (a) may with or without assistants enter any run or premises for the purpose of inspecting any stock or any brand or earmark, or any branding or marking instrument or any hide; and
15
(b) may require the production of any stock or any branding or earmarking instruments or hides, and may take possession of any stock, instruments, or hides in order that they may be dealt with as the law may direct; and
20
(c) may require persons to furnish information as to the ownership of stock or of branding or earmarking instruments or hides.

(2) Any person who, on request being made as
25 provided in the two last preceding subsections, neglects or refuses to furnish the information required, or to produce the stock or the branding instruments or hides required to be produced, shall be liable to a penalty not exceeding *fifty* pounds.

30 23. Any penalties imposed by this Act or the regulations may be recovered in a summary manner before any stipendiary or police magistrate, or any two justices in petty sessions.

Recovery of penalties.

DIVISION 9.—*Miscellaneous.*

35 24. On the trial of any person charged with horse or cattle stealing, the Attorney-General or other officer prosecuting on behalf of the Crown may prove that the brands appearing upon the animals alleged to have been stolen are the brands of the person charged on the information

Entry of brand prima facie evidence of ownership.

information to be the owner, or of some person through whom such alleged owner claims; and such evidence may, if in the opinion of the jury the other circumstances proved at the trial warrant such course, be taken into consideration in determining the question of ownership. 5

Pound-keepers to keep Brand Directory.

25. (1) Every poundkeeper shall keep copies of the latest edition of the brand directory and of the Gazettes containing the lists of the brands and marks, and the names and residences of the proprietors thereof; and 10 shall, on the receipt of a fee of one shilling, permit a search in such brand directory and Gazettes at all reasonable hours.

(2) Every poundkeeper who fails to comply with any requirement of this section shall, for every 15 such offence, be liable to a penalty not exceeding five pounds.

Notice of impounding to be sent to owner of brand.

26. (1) When any cattle or horses are impounded, the poundkeeper shall forthwith send notice thereof to the proprietor of the brand which appears last in order 20 on such cattle or horses.

(2) Every poundkeeper who neglects or delays to send any such notice shall, for every such offence, be liable to a penalty not exceeding ten pounds.

Not to affect mortgages under Act No. 7, 1898.

27. Nothing herein contained shall affect any 25 mortgage or other security under Part III of the Liens on Crops and Wool and Stock Mortgages Act of 1898.

Fees, how disposed.

28. All fees and moneys payable under this Act shall be according to the scale as prescribed, and shall be paid to the registrar of brands, who shall pay the 30 same to the Colonial Treasurer, and all such fees and moneys shall be carried over to the Consolidated Revenue Fund, and a separate account (to be called the "registration of brands account") shall be kept in the books of the Treasury of all such fees and moneys, and also of 35 all moneys paid therefrom under and for the purposes of this Act.

Payment of expenses under this Act.

29. The Colonial Treasurer may, by virtue of warrants of the Governor, to be issued under his hand, pay out of the Consolidated Revenue Fund such sums 40 of moneys to be specified in such warrants as may be necessary for the purposes of this Act: Provided

Provided that no payment so made out of the Consolidated Revenue Fund shall exceed the amount to the credit of the registration of brands account beyond the sum of one thousand pounds.

5 **30.** Where by any of the provisions of this Act it may be necessary to give any notice, or send any document to any person, such notice or document may be communicated or sent to such person by letter, or delivered to him personally, or left at his usual place of
10 abode or business. Services of notices, &c.

31. All penalties under this Act may be recovered and enforced before two justices in a summary manner, according to the provisions of the Act or Acts for the time being regulating proceedings before justices and
15 shall be paid to the Colonial Treasurer, to be by him carried over to the Consolidated Revenue Fund, and credited to the registration of brands account. Disposal of penalties.