THE STOCK BRANDS ACT, 1916.

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1s. 2d.]

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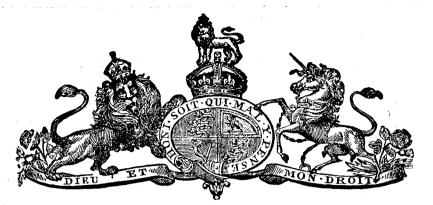
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1916.

ANNO SEPTIMO

GEORGII V. REGIS.

No. 44.

AN ACT to consolidate and amend the Law 1916. relating to the Registration of Brands on — Stock, and for other purposes.

[8 February, 1917.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :---

PART I. PRELIMINARY.

1 This Act—

I. May be cited as "The Stock Brands Act, 1916":

11. Shall come into operation on the First day of January, One thousand nine hundred and seventeen.

Short title and commencement.

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2 The provisions of this Act are arranged as follows :
Part I Preliminary. (Sections One to Four.)
Part II.—Powers of Inspectors. (Section Five.)
Part III Registration of Brands. (Sections Six to Seventeen.)
Part IV.—Transfers and Cancellation of Brands. (Sections Eighteen and Nineteen.)
Part V Brands and Branding. (Sections Twenty to Twenty- seven.)
Part VI.—Miscellaneous (Sections Twenty-eight to Thirty- eight)
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3 Except as provided in Section Thirteen hereof, "The Stock Brands Act, 1915," is hereby repealed.
4 In this Act, unless the context otherwise determines
"Appears" when used in relation to a registered brand or a registered bodybrand means—
 In the case of a registered earmark or firebrand— "is branded in accordance with this Act": In the case of a woolbrand – "is branded in accord-
ance with this Act, and appears visible and legible ":
"Bodybrand" means a design consisting of any letter, sign, or character (not being a numeral), or laterally arranged combination of letters (other than a monogram, but in- cluding conjoined letters), signs or characters (not
being numerals) registered as a brand under this Act : "Brand" includes registered bodybrand and registered ear- mark, and "branding," and "branded," have correspond-
ing meanings: "Cattle" means any bull, cow, ox, heifer, steer, or calf:
"Earmark" used as a verb means to punch or clip an earmark in the ear or ears of stock :
"Earmark" used as a noun means a mark or marks punched or clipped in the ear or ears of any stock, and registered under this Act:
"Firebrand" means a registered bodybrand burned by any means upon the hide of cattle:
"Inspector" means any inspector of stock appointed or acting under any Act for the time being in force relating to stock, and includes the Director of Agriculture and the Chief Inspector of Stock :
"Minister" means the Minister of Agriculture for the time
being of this State: "Occupier" means the owner, proprietor, or occupier, jointly

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- "Owner" means the person in whose name any registered A.D. 1916. brand is registered under this Act, or the executor or administrator of such person, or the authorised agent or manager of such person :
- "Proprietor" means the owner or proprietor jointly or in severalty of any stock, or the authorised agent or manager of such proprietor:
- "Register" means the register kept in pursuance of this Act :
- "Registered" means registered by the Registrar under this Act:
- "Registrar" means the Registrar of Brands appointed under "The Stock Brands Act, 1915," or this Act :
- "Run" means any run, station, farm, or place where stock are or have been kept or depastured :
- "Section" means section of this Act :
- " Sheep " means any ram, ewe, wether, or lamb :
- "Stock" means any cattle or sheep :
- "Stud Stock" means any pure-bred stock kept for breeding purposes of which the pedigree for at least Three generations has been kept by, or is in the possession of, the proprietor :
- "Unregistered" used in connection with a brand, design or mark means a brand, design or mark which is not registered under this Act, the Act of Council of 6 William IV. No 17, or "The Stock Act" (39 Vict. No. 20):
- "Woolbrand" means a registered bodybrand on the wool of sheep made with any branding substance other than tar, pitch, or paint.

PART II.

POWERS OF INSPECTORS,

5-(1) Every inspector may-

- 1. Enter upon any place, and search for and inspect any stock, Inspectors. branding-iron, or any other instrument for branding stock :
- 11. Seize, remove, and destroy any branding-iron or any other instrument which appears to him to be used or to be capable of being used for committing any offence against this Act :
- III. Seize, remove, and impound any unbranded sheep or any sheep with respect to which it appears to him that any offence against this Act has been or is being committed :
- IV. Seize, remove, and impound stock bearing any unregistered or obliterated brand :
- v. Employ any person to assist him in carrying out the provisions of this Act.

Powers of

A.D. 1916. (2) Any person who-

- 1. Hinders or impedes, or attempts to hinder or impede, an inspector or person employed to assist him in the execution of his duty : or
- Refuses on demand to produce to an inspector for inspection all branding-irons or instruments for branding used or being in any place : or

III. Refuses to permit an inspector to inspect any stock, or branding-iron, or any other instrument for branding-

shall be guilty of an offence against this Act.

PART III.

REGISTRATION OF BRANDS.

General.

Appointment of Registrar of Brands.

Register to be

Certificates.

kept.

6-(1) There may be appointed from time to time, in conformity with the provisions of "The Public Service Act, 1905," a Registrar of Brands.

(2) The person holding the office of Registrar at the commencement of this Act shall be deemed to have been appointed under this Act.

(3) Any person who hinders or impedes, or attempts to hinder or impede the Registrar in the execution of his duty, shall be guilty of an offence against this Act.

7-(1) The Registrar shall keep in the prescribed form a register for the registration of brands under this Act.

(2) The registration of a brand shall be effected by the entry in the register of full particulars thereof, whereupon the person in whose name it is registered shall become the owner of such brand.

(3) The Registrar shall, upon registering a brand transmit to the owner thereof a certificate to that effect in the prescribed form.

(4) Such certificate in the case of a public pound shall be transmitted to and be retained by the keeper for the time being of the pound.

What brands may be registered.

The Registrar may modify registered brands found to be objectionable. 8 No design other than a provisional brand as hereinafter provided shall be registered as a brand under this Act unless it corresponds with the definition of earmark or bodybrand contained in Section Four of this Act.

9 If it is found that any brand has been registered which in the opinion of the Registrar is likely to cause confusion or mislead, the Registrar shall so modify it as to obviate such likelihood, and shall give the owner thereof notice of the modification, whereupon the brand as modified shall become his registered brand.

10 Not more than One earmark and One bodybrand shall be regis. A.D. 1916. tered in the name of any person.

11 The owner of any registered brand shall be the only person One earmark and entitled to use such brand.

12—(1) Every proprietor—

- I. Of stock may apply to the Registrar to have a design Owner solely registered as his earmark :
- 11. Of cattle may apply to the Registrar to have the design submitted by him registered as his firebrand :
- un. Of sheep shall apply to the Registrar to have a design brands. registered as his woolbrand.

(2) Every application shall—

- I. Be in the prescribed form :
- **II.** Contain the prescribed information :
- III. Be accompanied by the registration fee according to the scale in the Schedule hereto.

(3) The Registrar shall note on each application the date on which such application reached his office.

13—(1) All applications for registration of bodybrands made under Applications Section Thirteen of "The Stock Brands Act, 1915," are hereby con- under 6 Geo. V. tinued under this Act, and shall be dealt with as provided by Sections No. 54. Fourteen, Fifteen, and Sixteen of the firstmentioned Act.

(2) All applications for registration of brands made under Section Nineteen of the said firstmentioned Act shall be deemed to be applications made under this Act and shall be dealt with by the Registrar as provided by Section Sixteen of this Act.

14 The Registrar may, by notice in writing, require any applicant Registrar may under Section Twelve to furnish to him within such time as in the require statutory notice is specified—

- 1. A statutory declaration as to the truth of the statements made in his application : and
- II. Such further evidence in connection with his application as the Registrar may consider expedient.

15 The Registrar shall allot to each public pound established in this Allotment of State, and shall from time to time allot to every public pound thereafter brands to established in this State, a bodybrand, and shall register the same in the public pounds. name of "the keeper for the time being of -----pound."

16 The Registrar shall deal with applications under Section Twelve No registration of in respect of firebrands and bodybrands received by him as follows :--- confusing brands.

1. No design submitted under that section shall be registered under this Act which in the opinion of the Registrar is likely to cause confusion or mislead:

declaration, &c.

No person to have more than One bodymark. Cf. N.S.W. No. 35 of 1912, s. 132.

entitled to use brand.

Applications for registration of

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II. The Registrar shall give preference to applications in the order in which he received them, and in the event of Two or more applications for the same design being received by him on the same day shall, in his discretion, decide in the name of which of such applicants it shall be registered.

In the event of the Registrar rejecting any application he shall forthwith give to the applicant concerned notice of such rejection and the objection thereto, and may suggest any modification of the design submitted.

If the Registrar suggests any modification, then unless within Twenty-one days of the date of such notice the applicant concerned submits to him another design for registration, and the Registrar approves thereof, the Registrar shall register the design as modified in accordance with the Registrar's suggested modification in name of the applicant.

17—(1) Every proprietor who is unable to obtain the registration of a bodybrand or earmark under The Stock Brands Act, 1915," or under Section Twelve owing to the work of registering being incomplete may use the bodybrand or earmark previously used by him, provided that the same is registered by him under the Act of Council of 6 William IV. No. 17, or under "The Stock Act," until notified by the Registrar of the due registration of the bodybrand or earmark first mentioned.

(2) In cases where no bodybrand or earmark has been registered under either of the said Acts, and the applicant has become proprietor since the First day of March, One thousand nine hundred and sixteen, the Registrar may allot such proprietor a provisional brand in the form of a numeral or numerals.

PART IV.

TRANSFERS AND CANCELLATION OF BRANDS.

Transfer by memorandum. 18-(1) A registered brand may be transferred by the owner thereof to any other person by filing with the Registrar a memorandum of transfer in the prescribed form, signed by the transferror and the transferree.

(2) Such memorandum shall be accompanied with a registration fee of Five Shillings, and the transfer shall not be registered if its registration involves a breach of Section Ten.

(3) The registration of a transfer shall be effected by the Registrar cancelling the registration of the brand in the name of the transferror, and effecting a new registration of the brand in the name of the transferree, the transfer being noted in both places in the register.

s. 1**3**4.

Cf. N.S.W.

No. 35, 1912,

Provisional brands.

19 - (1) ⁷ he Registrar may on application in the prescribed form A.D. 1916. accompanied with a registration fee of One Shilling, cancel the registration of any registered brand on the application-

I. Of the owner of such brand : or

II. Of any other person who proves to the satisfaction of the Registrar that the owner of such brand has ceased to use it.

(2) The Registrar may require any such application to be advertised in One or more newspapers, by and at the expense of the applicant, for such period and in such manner as the Registrar may direct.

PART V.

BRANDS AND BRANDING.

20-(1) All sheep, except unweaned sheep and stud sheep, shall be All sheep except branded, and kept visibly and legibly branded, by the proprietor thereof unweaned sheep with his registered bodybrand in the manner herein provided.

The provisions of this section shall not apply to longwool sheep upon Cf. N.S.W. which the woolbrand cannot be kept visible and legible owing to the No. 35 of 1912, long-stapled, heavy, loose fleece :

Provided that such sheep are earmarked with the registered ear mark of the proprietor of such sheep.

(2) The keeper of a public pound shall, on the sale of any weaned Poundbrand to stock impounded in such public pound, and in no other case, brand the be branded on same with the registered bodybrand of that pound.

(3) Such bodybrand, in the case of sheep, shall take the form of a Woolbrand. woolbrand.

(4) Such bodybrand, in the case of cattle, shall take the form of a Fivebrand. firebrand.

21-(1) No firebrand shall be less than Two nor more than Three Size of bodybrand. inches in height: Provided that where the brand consists of a letter S.A., 4 Geo. V. No. 1132, s. 12. within a sign, the sign may be Five inches in height.

(2) No woolbrand shall be less than Two inches nor more than Four Ib., s. 27 and Cf. W.A., No. 61 of inches in height. 1904, as amended

(3) Where a firebrand or a woolbrand consists of more letters, signs, by No. 14 of or characters than One, such letters (unless they are conjoined letters), 1904, s. 10. signs, or characters, shall be not less than One inch apart.

22--(1) No person shall earmark any stock, except as provided in Who may this and the following section.

(2) The breeder of any stock, or the proprietor thereof may earmark the same with his registered earmark, provided that such stock are not already earmarked.

(3) All registered earmarks shall be made only by earmarking in- No registered struments, the cutters of which shall be of the prescribed size and shape. marks shall be

earmark stock.

impounded stock.

and stud sheep to be branded. s. 131.

Cancellations.

made except with

earmarkers.

A.D. 1916.

Distinctive marks.

When stock deemed to be. branded with an unregistered brand.

Evidence Cf. 35 Vict. No. 4, s. 35 (Q.).

No brand or earmark to be used unless registered. (4) A registered earmark upon any stock shall in every case be marked in the near or left ear of male stock, and in the off or right ear of female stock; and afterwards no other mark whatever shall be placed in the ear so marked.

23 The breeder of any stock, or the proprietor thereof, may mark distinctive marks to denote the age, sale or class of such stock)—

1. As to male stock, in the off or right ear; and

11. As to female stock, in the near or left ear.

Provided nothing in this Act shall prevent the purchaser earmarking this ear according to the provisions of Section Twenty-two.

24-(1) For the purposes of this Act any stock branded or earmarked after the commencement of this Act with any brand or mark (whether or not a registered brand) not in accordance with the provisions of this Act, or with a registered bodybrand which is not kept clearly visible and legible, shall, so far as concerns that brand, or mark, or bodybrand, be deemed to be branded with an unregistered brand; but the ear whereon such brand or mark appears shall not again be available for branding:

(2) Any stock bearing a brand or mark (whether or not a registered brand) which has been altered, blotched, defaced, or rendered illegible, and all stock of which either ear has been branded, marked, sliced, cut or cropped contrary to this Act, shall be held to be branded with an unregistered brand or mark.

25—(1) Any registered bodybrand legible and visible upon any stock shall be *primå facie* evidence of the ownership of such bodybrand, and of the stock on which such bodybrand is imprinted.

(2) Any registered earmark marked upon any stock, and being the only earmark marked thereon, shall be *primâ facie* evidence of the ownership of such earmark and of the stock in which such earmark is marked.

26 Except as provided by Sections Seventeen and Twentythree, no person shall except with the consent in writing of the Registrar —

- 1. Mark, brand, or use upon stock any brand or mark other than his registered brand :
- II. Use, or attempt to use, or permit or suffer to be used, or have in his possession or upon his premises any branding-iron, earmarkers, or any other instrument for branding stock by which any brand other than his registered brand may be impressed or marked upon stock.

Offences.

27—(1) If any person—

1. Brands any stock with a registered brand without the authority of the owner of that brand : or

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- 11. Brands any stock with an unregistered brand, design, or A.D. 1916 mark, except as provided by Sections Seventeen and Twenty-six : or
- III. Blotches, defaces, or otherwise renders illegible, or alters, any brand or mark, whether or not a registered brand, upon stock : or
- iv. Marks any stock on the ear, or mutilates, crops, slices, or in any manner cuts the ears of any stock, except as provided by this Act : or
- v. Causes, directs, assists in, or permits, or suffers any such thing as aforesaid : or
- vi. In any other way fails to comply with or offends against any of the provisions of this Act-

he shall be liable to a penalty of not less than Five Pounds and not exceeding Fifty Pounds.

(2) In any prosecution under this Act the onus of proving that a sheep is unweaned shall lie on the defendant.

PART VI.

MISCELLANEOUS.

28-(1) The Registrar shall, as soon as practicable after the First Brands directory day of January, in the year One thousand nine hundred and seventeen, to be compiled. and thereafter from time to time whenever required by the Minister cause a Brands Directory, containing full particulars to date of all the brands registered and uncancelled, and of all transfers and cancellations entered in the register, to be compiled and gazetted.

(2) The Registrar shall, after the publication of a Brands Directory, at the end of every quarter, or at such longer intervals as the Minister may deem proper, cause a supplemental directory, containing full particulars to date of all brands registered, transferred, or cancelled, not contained in the Brands Directory and supplementary directories already published, to be compiled and gazetted.

29-(1) Every poundkeeper, inspector, and member of the Poundkeepers Tasmanian Police Force in charge of a police station, shall keep copies, and others to keep as supplied by the Registrar, of-

1. The latest edition of the Brands Directory : and

II. Every supplemental directory : and

m. All regulations under this Act-

and shall permit a search by any person without fee, in all or any such documents at all reasonable hours.

(2) Every poundkeeper, inspector, or member of the Tasmanian Police Force who fails to comply with any of the requiremen's of this section shall be guilty of an offence against the Act.

copy of directory and supplemental directories open to inspection.

A.D. 1916.

Owners'mustering sheep in certain cases to give notice to neighbours.

permit to hunt

for stock.

30-(1) Every proprietor possessed of Fifty or more stock, shall give the occupier of any run adjoining his run who has Fifty or more stock not less than Twenty-four hours' nor more than Five clear days' notice in writing of any muster intended to be made by such proprietor on his own run for the purpose of branding or marking any stock, and shall permit the said occupier or his employees to attend at any such muster:

Provided that any such proprietor may, with the consent of any such occupier, omit such notice.

(2) Any person failing to comply with any provision of this section shall, for every such offence, be liable to a penalty not exceeding Ten Pounds.

Justice may grant **31**-(1) Any proprietor having reason to believe that any of his stock are on the run of another person may--

- 1. If such other person refuses him permission to enter on such run and search for such stock : or
- II If such other person does not reside on such run or cannot be readily communicated with---

apply to a justice who may grant permission to such proprietor to enter on such run, and search for, collect. and remove therefrom, all such stock as may be found thereon, upon such conditions as to such justice seems expedient.

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

32 If any person purchases privately or by public auction any sheep, he shall within Ten days after the removal of such sheep brand the same, except such as are stud sheep or are unweaned, with his registered bodybrand, and shall give notice within Forty-eight hours to the nearest inspector or a member of the police force when he intends so to brand such sheep.

Such notice shall be in the prescribed form, in writing, signed by him, setting forth the name and address of the person from whom such sheep were purchased, also the number and description of all such sheep and the time and place proposed for branding same.

Any person who refuses or neglects to comply with this section shall incur a penalty of not less than Two Pounds and not exceeding Twenty Pounds.

33 No person shall brand any stock, or cause or direct any stock to be branded, without causing notice of such branding to be given to the nearest inspector or member of the police force.

Such notice shall be in the prescribed form, and shall set forth the description and number of all such stock and the time and place proposed for branding the same.

Person purchasing sheep to brand same and give notice to inspector. Section 19 of 39 Vict. No. 20.

Notice of brandings to be given. 6 Will. IV. No. 17, s. 7.

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Any person who refuses or neglects to comply with the provisions of A.D. 1916. this section shall incur a penalty of not less than Two Pounds and not exceeding Twenty Pounds.

The provisions of this section shall not apply to branding or marking under Section Twenty-three.

34 Any person who—

- I. Knowingly inserts, or causes or permits to be inserted, any Punishment for false entry of any matter relating to any registered brand forged or false in any register, certificate, brand directory, supplemental registrations, brand directory, or in any extract therefrom : or
- II. Forges, or alters, or offers, utters, disposes of, or puts off, referred to. knowing the same to be forged or altered, any such register, certificate, directory, supplemental directory, or any extract therefrom, or that which purports to be such extract or entry: or
- III. Wilfully destroys, defaces, injures, or alters, or causes to be destroyed, defaced, injured, or altered, any such register, certificate, directory, supplemental directory, extract. or entry, or any part thereof: or
- iv. Knowingly and wilfully uses a registered brand without the authority of the owner of that brand-

shall, on conviction for any such offence, be deemed guilty of a misdemeanour, and being convicted thereof shall be liable to imprisonment for any period not exceeding Three years.

35 Any person who wilfully brands, or causes, directs, or permits Persons branding to be branded with his own registered brand, or with a brand stock not their which is not registered in the name of the proprietor of such imprisoned. stock, any stock of which he is not the rightful proprietor shall be guilty of a misdemeanour, and liable, on conviction of every such offence, to be imprisoned for any term not exceeding Three years.

36 All informations for offences against the provisions of this Act Procedure. and regulations thereunder, and all penalties and fines imposed thereby 19 Vict. No. 8. or thereunder, may be heard, determined, recovered, and enforced in a summary way by and before a police magistrate or any Two or more justices in the mode prescribed by "The Magistrates' Summary Procedure Act," the provisions of which Act shall apply.

37 If the magistrate or justices before whom any person is brought, Justices' discharged with an offence punishable under this Act on summary con- cretion to send viction, are of opinion that there ought to be a prosecution for felony or for trial. misdemeanour, such magistrate or justices may abstain from adjudicating in a summary manner thereon, and deal with the case as one to be prosecuted at a general gaol delivery in the Supreme Court.

38 All fees payable to the Registrar under this Act shall, when Appropriation of received, be paid by him into the Treasury of Tasmania, and form part fees. of the Consolidated Revenue.

directory or other matter in this Act

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PART VII.

REGULATIONS.

Regulations

- **39** The Governor may make regulations dealing with-
 - I. Applications for, and registration of brands :
 - 11. Transfer and cancellation of registered brands :
 - III. The form of books to be kept by the Registrar;
 - iv. The compilation and publication of the Brands Directory and supplemental directorics, and the charge payable for copies thereof:
 - v. The manner in which all registered brands shall be branded and made:
 - vi. Any matter in connection with which the expression "prescribed" is used in this Act, and for any purpose for which regulations are contemplated by this Act:
 - vii. The manner in which authentication of sales of stock, hides, and skins, shall be given by persons selling the same, and their agents :
 - viii. The establishment of a provisional system of branding by means of numerals to be used pending the allocation of bodybrands under Part III. of this Act:
 - x1. All other matters which the Governor deems expedient or necessary for fully and effectually carrying out and giving force and effect to the various objects, powers, purposes, and authorities of this Act, and guarding against evasions and violations thereof—

And may by any such regulation impose penalties for the breach of the same or other regulations, not exceeding for any one offence Twentyfive Pounds.

SCHEDULE.

SCALE OF FEES FOR REGISTRATION OF BRANDS.

Section 12

d. For one head of stock, and not exceeding 50 head of stock 1 6 For 51 head of stock, and not exceeding 100 head of stock 2 6 For 101 head of stock, and not exceeding 500 head of stock..... 5 0 7 6 For 501 head of stock, and not exceeding 1000..... 2 6 And for every additional 100.) head of stock or part of 1000,.....

JOHN VAIL, GOVERNMENT PRINTER, TASMANIA.

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