

Queensland



ANNO VICESIMO SECUNDO

ELIZABETHAE SECUNDAE REGINAE

No. 88 of 1973

An Act to amend The Criminal Code, the Justices Act
1886-1973 and The Brands Acts 1915 to 1965
each in certain particulars

[ASSENTED TO 20TH DECEMBER, 1973]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as *The Criminal Code and the Justices Act and Another Act (Stock Offences) Amendment Act 1973*.

2. Commencement. This Act shall commence on a day to be fixed by Proclamation.

3. Parts of Act. This Act is divided into Parts as follows:—

PART I—PRELIMINARY;

PART II—AMENDMENTS OF THE CRIMINAL CODE;

PART III—AMENDMENTS OF THE JUSTICES ACT 1886–1973;

PART IV—AMENDMENTS OF THE BRANDS ACTS 1915 TO 1965.

PART II—AMENDMENTS OF THE CRIMINAL CODE

4. Construction. This Part shall be read as one with *The Criminal Code*.

5. Amendment of s. 398. Punishment of Stealing. Section 398 of *The Criminal Code* is amended by omitting paragraph III.

6. Amendment of s. 443. Indictable Offences which may be dealt with Summarily. Section 443 of *The Criminal Code* is amended by—

(a) inserting after subparagraph (1) the following subparagraph:—

“(1A) In a case of stealing, the thing stolen is any of the things following, that is to say, a horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, goat or pig, or the young of any such animal and the value thereof does not exceed one thousand dollars; or”;

(b) inserting after the second proviso in that section, being the proviso concluding with the words “in respect of the charge arose.” the following proviso:—

“:

Provided further that in a case of stealing, where the thing stolen is any of the things referred to in subparagraph (1A) of this section and the value thereof exceeds one thousand dollars, the justices shall not deal with the charge summarily notwithstanding the provisions of subparagraph (3) of this section.”.

7. Amendment of s. 446. Suspicion of Stealing Cattle. Section 446 of *The Criminal Code* is amended by—

(a) inserting after the words “possession or custody” the words “the animal or”;

(b) omitting the words “two hundred and fifty pounds.” and substituting the words “two hundred dollars for every animal or skin or carcass or part of skin or carcass so found, or to imprisonment with hard labour for one year, or to both such fine and imprisonment.”.

8. Amendment of s. 447. Illegal Branding. Section 447 of *The Criminal Code* is amended by omitting the words “two hundred and fifty pounds.” and substituting the words “two hundred dollars for every animal so branded or marked, or to imprisonment with hard labour for one year, or to both such fine and imprisonment.”.

9. Amendment of s. 448. Defacing Brands. Section 448 of *The Criminal Code* is amended by inserting at the end of the section, after the words "the act is done", the words "or to imprisonment with hard labour for one year, or to both such fine and imprisonment".

10. Amendment of s. 448A. Having in Possession an Animal with Defaced Brand. Section 448A of *The Criminal Code* is amended by inserting at the end of the first paragraph, after the words "for every animal so found", the words "or to imprisonment with hard labour for one year, or to both such fine and imprisonment".

11. Amendment of s. 545. Accessories after the Fact to Misdemeanours and some other Offences. Section 545 of *The Criminal Code* is amended by omitting the words "one year" and substituting the words "six months".

12. New s. 679B. *The Criminal Code* is amended by inserting after section 679A the following section:—

"679B. Powers of police officers in respect of offences relating to certain animals. (1) If it appears to a police officer that there are reasonable grounds for suspecting that any offence relating to any of the following things, that is to say, a horse, mare, gelding, ass, mule, camel, bull, cow, ox, ram, ewe, wether, goat or pig, or the young of any such animal, has been, is being, is about to be or may be committed on or in relation to any holding, the police officer may, with such assistants, animals, vehicles and equipment as he considers necessary for the purpose—

- (a) enter upon and leave as often as he considers necessary the holding;
- (b) search for and inspect any such animals or their young, brand, mark, branding instrument or pliers and, in the case of any such animals or their young travelling, stop them and, for the purpose of exercising any of the powers conferred by this paragraph, stop any vehicle or vessel;
- (c) muster, yard, detain, clip and otherwise deal with any such animals or their young when he considers it necessary in the proper carrying out of his investigations so to do;
- (d) seize and detain any such animals or their young in respect of which he suspects on reasonable grounds that the owner or person in charge has committed or is committing an offence as aforesaid;
- (e) seize and detain any other thing in respect of which he suspects on reasonable grounds that an offence as aforesaid has been or is being committed by any person, whether known to the police officer or not;
- (f) use such force as is reasonably necessary to exercise any of the aforesaid powers.

(2) In this section the term "holding" means any run, station, farm, freehold, leasehold or place where any animals or their young referred to herein are kept or depastured, and any premises or saleyard, but does not include any premises being a dwelling house or other building or place used for human habitation."

PART III—AMENDMENTS OF THE JUSTICES ACT 1886–1973

13. Citation. (1) In this Part, the *Justices Act 1886–1973*, being the *Justices Act 1886–1972* as amended by the *Justices Act Amendment Act 1973*, is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Justices Act 1886–1973*.

14. Amendment of s. 108. Procedure upon a consideration of all the evidence. Section 108 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:—

"(2) If, having regard to the length of time which should elapse before a court of competent jurisdiction next sits at a place to which the defendant would in the absence of this subsection be committed to be tried, the justices are of the opinion—

(a) that it would be just that the trial of the defendant should be held at some other place before a court of competent jurisdiction, the justices may, with the prior consent in writing of the defendant (which consent shall be kept with the depositions of the witnesses), order him to be committed to be tried for the offence at such other place before such a court;

(b) that, by reason of the expense likely to be incurred in the keeping or preservation of any exhibit tendered in evidence upon the examination of witnesses and to be, or proposed to be, tendered in evidence at the trial of the defendant, the trial of the defendant should be held at some other place before a court of competent jurisdiction, the justices may order him to be committed to be tried for the offence at such other place before such a court."

15. Amendment of s. 113. Procedure if defendant pleads guilty. Section 113 of the Principal Act is amended by omitting subsection (4) and substituting the following subsection:—

"(4) If, having regard to the length of time which should elapse before a court of competent jurisdiction next sits at a place to which the defendant would in the absence of this subsection be committed for sentence, the justices are of the opinion—

(a) that it would be just that the defendant should be sentenced for the offence at some other place before a court of competent jurisdiction, the justices may,

- with the prior consent in writing of the defendant (which consent shall be kept with the depositions of the witnesses), order him to be committed for sentence for the offence at such other place before such a court;
- (b) that, by reason of the expense likely to be incurred in the keeping or preservation of any exhibit tendered in evidence upon the examination of witnesses and to be, or proposed to be, tendered as an exhibit upon the appearance of the defendant for sentence, the defendant should be sentenced for the offence at some other place before a court of competent jurisdiction, the justices may order him to be committed for sentence for the offence at such other place before such a court.”.

PART IV—AMENDMENTS OF THE BRANDS ACTS 1915 TO 1965

16. Citation. (1) In this Part, *The Brands Acts 1915 to 1965* are referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Brands Act 1915–1973*.

17. New s. 24A. The Principal Act is amended by inserting after section 24 the following section:—

“**24A. Prohibition on sale of unbranded cattle.** A person shall not sell any cattle of a live weight in excess of 100 kilograms unless such cattle are branded with a horse and cattle brand.

Penalty: \$200 or imprisonment for three months.

This section applies subject to section 24B.”.

18. New s. 24B. The Principal Act is amended by inserting after section 24A as inserted by this Act the following section:—

“**24B. Power of Minister to exempt.** (1) The Minister may from time to time by writing under his hand:—

(a) exempt any person or any class of person from the prohibition contained in section 24A;

(b) make an exemption from the prohibition contained in section 24A in relation to any cattle or any class of cattle,

either absolutely or subject to such conditions as he specifies in the writing.

(2) The Minister may by writing under his hand revoke or vary an exemption given or made by him under this section and may revoke or vary a condition subject to which an exemption is given or made.

In the case of any such variation, the exemption or condition shall apply as so varied.

(3) An exemption and a revocation or variation of an exemption may be published in the Gazette and upon such publication shall be judicially noticed.

(4) A person shall not contravene or fail to comply with a condition applicable to him subject to which an exemption is given or made under this section.

Penalty: \$200 or imprisonment for three months.”.