

Queensland



ANNO VICESIMO OCTAVO

ELIZABETHAE SECUNDAE REGINAE

No. 64 of 1979

An Act to amend the Brands Act 1915–1978 in certain particulars

[ASSENTED TO 18TH DECEMBER, 1979]

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:—

1. **Short title and citation.** (1) This Act may be cited as the *Brands Act Amendment Act 1979*.

(2) In this Act the *Brands Act 1915–1978* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Brands Act 1915–1979*.

2. Commencement. (1) Subject to subsection (2), this Act shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Section 13 shall commence on a day to be fixed by Proclamation.

3. Amendment of s. 3. Section 3 of the Principal Act is amended by—

(a) inserting after the definition “Owner” the following definitions:—

““Pig”—A boar, sow, barrow or pig of any age, sex or breed;

“Pig brand”—Any tattoo brand permanently imprinted on the side of pigs and registered;

“Pig Brands Directory”—The list of registered pig brands compiled and published by the registrar;”;

(b) omitting the definition “Prescribed”;

(c) omitting the definition “Regulations” and substituting the following definition:—

““Requisition”—Any order, request or requisition whether given orally or in writing;”;

(d) inserting after the definition “Saleyard” the following definition:—

““Sell” includes auction, barter, exchange or supply, or cause, permit or attempt any of those acts, offer or attempt to sell, supply or receive for sale, have in possession for sale, expose for sale, send, forward or deliver for or on sale, cause, suffer or allow to be sold or offered for sale, dispose or offer for disposal under a lease or hire purchase agreement;”;

(e) omitting from the definition “Spay mark” the word “exceeding” and substituting the words “less than 15 millimetres nor more than”;

(f) inserting in the definition “Stock” after the word “sheep” the words “, pig”.

4. Amendment of s. 6. Section 6 of the Principal Act is amended by omitting subsection (7) and substituting the following subsection:—

“(7) The registrar shall—

(a) as soon as possible after 31 December in every fourth year, cause to be compiled and published a Brands Directory containing all the horse and cattle brands and cattle earmarks registered up to that date;

(b) from time to time as he thinks desirable cause to be published a statement indicating all transfers, alterations, additions and removals made in the Brands Directory during the period indicated in the statement and certified by him to a date indicated in that statement,

and as soon as possible after publication shall cause copies of the directory or, as the case may be, statement to be transmitted to such keepers of public pounds, inspectors and clerks of the court in the State as the Minister approves.”.

5. Amendment of s. 8. Section 8 of the Principal Act is amended by—

(a) omitting from subsection (1) the word “horse” and substituting the words “horse, pig”;

(b) inserting at the end thereof the following subsection:—

“ (4) The provisions of subsections (2) (b) and (3) do not apply to pigs.”.

6. Amendment of s. 10. Section 10 of the Principal Act is amended by—

(a) omitting from subsection (3) the words “imprinted upon the position on the shoulder, ribs, back or rump specified” and substituting the following words:—

“imprinted—

(a) using the colour; and

(b) upon the position on the shoulder, ribs back or rump, specified”;

(b) omitting subsection (4) and substituting the following subsection:—

“ (4) The registrar shall—

(a) as soon as possible after 31 December in every fourth year, cause to be compiled and published a Sheep Brands and Earmarks Directory containing all the sheep brands and sheep earmarks registered up to that date;

(b) from time to time as he thinks desirable cause to be published a statement indicating all transfers, alterations, additions and removals made in the Sheep Brands and Earmarks Directory during the period indicated in the statement and certified by him to a date indicated in that statement,

and as soon as possible after publication shall cause copies of the directory or, as the case may be, statement to be transmitted to such keepers of public pounds, inspectors and clerks of the court in the State as the Minister approves.”.

7. New s. 11A. The Principal Act is amended by inserting after section 11 the following section:—

“ **11A. Registration of pig brands.** (1) The registrar, if satisfied that an application for a pig brand is in conformity with this Act, shall allot to the applicant a pig brand and register the brand in the name of the applicant.

(2) The registrar shall register a pig brand for use only—

(a) at one or more properties; or

(b) in the district,

to be specified by him and notified by him to the applicant.

Upon application by the owner, the registrar may alter or vary the registration of a pig brand by—

(c) deleting any property or district specified;

(d) specifying any property or district in substitution therefor; or

(e) specifying any additional property,

and shall notify the owner whereupon the brand shall be deemed to be registered for use at the property or properties or in the district as so altered or varied.

A person shall not use a pig brand elsewhere than at a property or in a district for the time being specified by the registrar.

(3) A pig brand shall consist of letters, numerals, signs or characters or any combination thereof.

The shape, pattern and arrangement of the letters, numerals, signs or characters comprising a pig brand shall be as the Minister, subject to this Act, determines.

(4) The face depth of any letter, numeral, sign or character included in a pig brand shall be not less than 12 millimetres and not more than 25 millimetres.

The face depth of any letter, numeral, sign or character which, when properly imprinted upon an animal would be in a position other than vertical, shall be measured with such letter, numeral, sign or, as the case may be, character in the vertical position.

(5) A pig brand shall be imprinted upon each side of a pig by way of tattoo with a branding instrument of an approved type or make and an approved fluid or paste.

The Chief Inspector of Stock within the meaning of the *Stock Act 1915-1979* may from time to time approve—

- (a) any type or make of branding instrument; and
- (b) any fluid or paste,

for use in imprinting pig brands by way of tattoo upon pigs for the purposes of this Act.

(6) A person shall not imprint a pig brand upon any pig otherwise than in accordance with this Act.

(7) The registrar shall from time to time as he thinks desirable cause to be published a list of makes or types of branding instruments and fluids and pastes approved by the Chief Inspector of Stock for the purposes of this section.

(8) The registrar shall—

- (a) as soon as possible after 31 December in every fourth year, cause to be compiled and published a Pig Brands Directory containing all the pig brands registered up to that date;
- (b) from time to time as he thinks desirable cause to be published a statement indicating all transfers, alterations, additions and removals made in the Pig Brands Directory during the period indicated in the statement and certified by him to a date indicated in that statement,

and as soon as possible after publication shall cause copies of the directory or, as the case may be, statement to be transmitted to such keepers of public pounds, inspectors and clerks of the court in the State as the Minister approves.”

8. Repeal of and new s. 15. The Principal Act is amended by omitting section 15 and substituting the following section:—

“**15. Duty as to Brands and Earmarks Directories.** Every poundkeeper, inspector and clerk of the court shall keep at his respective office a copy of—

- (a) the latest edition of the Brands Directory, the Sheep Brands and Earmarks Directory and the Pig Brands Directory; and
- (b) in respect of each such directory, each statement of transfers, alterations, additions and removals made in that directory published by the registrar subsequent to that edition,

and shall make those directories and statements available for inspection by any person at all reasonable times.”.

9. Amendment of s. 16. Section 16 of the Principal Act is amended by inserting after subsection (2) the following subsection:—

“(2A) The right to use a pig brand may be transferred in a like manner prescribed in subsection (1):

Provided that a pig brand shall not be used by the transferee otherwise than—

- (a) at a property specified by the registrar; or
- (b) if no property is so specified, in the district specified by the registrar,

for use thereat or therein.”.

10. Amendment of s. 19A. Section 19A of the Principal Act is amended by inserting in provision (a) of subsection (1) after the words “of any” the words “pig brand,”.

11. Amendment of s. 20. Section 20 of the Principal Act is amended in subsection (2) by omitting all words from and including the word “satisfied” to the end thereof and substituting the following words:—

“satisfied—

- (a) that a period of five years has elapsed since such brand or, as the case may be, earmark was in regular use by the registered owner thereof; or
- (b) in the case of an earmark, that the registered owner thereof has consented in writing to such cancellation and allotment.”.

12. Amendment of s. 24. Section 24 of the Principal Act is amended by—

(a) omitting paragraph (i) and substituting the following paragraph:—

“(i) —

- (a) Using or attempting to use or knowingly permitting to be used; or
- (b) Without lawful excuse (the proof of which shall be upon him) having in possession or at his residence or premises, any branding instrument or pliers other than a branding instrument or pliers relating to any brand or earmark which under this Act he is entitled to use;”;

(b) inserting in paragraph (ii) after the word “ name ” the words “ or the name of any person whom he is directing, aiding or assisting ”;

(c) inserting after provision (ix) after the word “ stock ” the following expression and words:—

“ :

Provided that a person is not liable under this section for any thing done or omitted to be done by him—

- (a) in compliance with the direction and with the consent of the owner of a brand or earmark; and
- (b) which could lawfully be done or omitted to be done by that owner ”.

13. New s. 24C. The Principal Act is amended by inserting after section 24B the following section:—

“ **24C. Prohibition on sale of unbranded pigs.** (1) Subject to subsection (3), a person shall not sell or offer for sale any pig of a live weight in excess of 30 kilogrammes unless that pig has been branded with the pig brand registered in the name of its owner.

(2) For the purposes of subsection (1), a pig shall be taken to be branded if and only if—

- (a) it is branded with a pig brand;
- (b) it is branded with a brand registered pursuant to the law of any other State or a territory of the Commonwealth and recognized therein as evidence of ownership of that pig; or
- (c) it is branded with a brand impressed or otherwise applied in a State or territory of the Commonwealth, the law whereof does not require the registration of such a brand, and accepted therein as evidence of ownership of that pig.

(3) The provisions of subsection (1) do not apply to a person who—

- (a) at the time of the sale of or offer to sell a pig, is not the owner of more than two pigs (including the pig sold or offered for sale); or
- (b) sells or offers for sale a pig purchased within a period of seven days prior to the sale of or offer to sell that pig which pig had been branded with a pig brand registered in the name of the person from whom it was so purchased.”.

14. Repeal of and new s. 25. The Principal Act is amended by omitting section 25 and substituting the following section:—

“ **25. Evidentiary provisions.** (1) In any proceeding—

- (a) proof that a brand or earmark is registered in the name of a person shall be evidence and, in the absence of evidence to the contrary, conclusive evidence that that person is the owner of that brand or, as the case may be, earmark;
- (b) a certificate, purporting to be signed by the registrar, that at a specified time or during a specified period a brand or earmark described therein is or was registered

in the name of a person named therein shall upon its production in that proceeding be conclusive evidence that that brand or, as the case may be, earmark is or was at that time or during that period registered in the name of that person;

- (c) a document purporting to be signed by the registrar and purporting to be a copy of a certificate of registration of, or of a notification of transfer or cancellation of, a brand or earmark shall be conclusive evidence of the fact and the date of such registration, transfer or, as the case may be, cancellation;
- (d) the existence on any head of stock of a registered brand (other than a special brand allotted under section 9A, 14 or 14B and a distinctive brand) or a registered earmark shall be evidence and, in the absence of evidence to the contrary, conclusive evidence that the animal concerned is the property of the registered owner of such brand or earmark and, where there are more than one such brand on such animal, of the registered owner of the brand which appears to be the last imprinted in accordance with the provisions of this Act:

For the purposes of this paragraph, the existence of a registered earmark on a sheep shall be evidence and, in the absence of evidence to the contrary, conclusive evidence that the sheep is the property of the registered owner of the earmark but the existence of a registered earmark on a head of cattle shall not be such evidence unless that earmark exists thereon in conjunction with a registered horse and cattle brand with which such earmark is at the material time registered;

- (e) the fact that any stock bearing any brand or earmark (whether registered or not) has been claimed or dealt with by any person as his property shall be prima facie evidence that such person imprinted or made such brand or earmark;
- (f) a spay mark upon any cow or heifer shall be prima facie evidence that such cow or heifer has been spayed;
- (g) a mark or cut wholly within the off ear of any head of cattle, being a mark or cut of a shape and size approved by the Minister for a particular purpose, shall be prima facie evidence that such purpose has been carried out.

(2) No provision of this section shall be construed to prejudice the operation of or to derogate from any provision of *The Criminal Code*."

15. Amendment of s. 26. (1) Section 26 of the Principal Act is amended by omitting from the second paragraph the words "upon application made in that behalf" and substituting the words "by the registrar".

(2) Where any registration or transfer of a brand or earmark is or was not effected the registrar may and, it is hereby declared, always could refund the whole or part of any fees paid pursuant to section 26 of the Principal Act in respect of the application for such registration or transfer.

16. Amendment of s. 31. Section 31 of the Principal Act is amended by—

(a) omitting from subsection (1) the second paragraph and substituting the following paragraph:—

“An offence against this Act may be prosecuted in a summary way under the *Justices Act* 1886–1979 upon the complaint of an inspector.”;

(b) omitting from subsection (2) the words ““*The Justices Acts, 1886 to 1964,*”” and substituting the words “the *Justices Act* 1886–1979 upon complaint by an inspector”.

17. Amendment of s. 32. Section 32 of the Principal Act is amended by inserting after the word “inspector” the words “and the Chief Inspector of Stock within the meaning of the *Stock Act* 1915–1979”.