

No. XII.

REGISTRATION OF BRANDS.

An Act to provide for the Registration of Brands. [5th October, 1866.]

Preamble.

WHEREAS it is expedient to provide for the Registration of Brands used in branding Horses and Cattle Be it therefore enacted by the Queen'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 the same as follows:—

Interpretation.

1. The following terms in inverted commas shall for the purposes of this Act bear the meanings set against them respectively unless the context otherwise indicate—

“Horse”—Any horse mare gelding colt filly ass or mule.

“Cattle”—Any bull cow ox heifer steer or calf.

“Register”—The Register Book containing a list of the brands of horses or cattle registered with the Registrar of Brands.

“Proprietor”—The registered proprietor of any brand.

“Brand”—The impression of any letter sign or character branded on any horse or cattle.

“Brand Directory”—The list of the brands of horses or cattle compiled by the Registrar of Brands and published by the Government Printer whether in the shape of a Brand Directory or of quarterly lists in the *Gazette*.

“Residence”—The residence house homestead or head station of any proprietor.

“Run”—Any run station farm freehold or leasehold where horses or cattle are kept or depastured.

“Fees”

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“Fees”—Any fees rates or charges which any person may be liable to pay under this Act or the Regulations made in pursuance thereof.

“Justice”—Any Justice of the Peace.

“Drover”—Any person other than the owner of any horses or cattle driving or in the possession or charge of the same.

2. The Registrar General shall be Registrar of Brands and shall possess the powers and perform the duties belonging to such office for the whole Colony. And the Governor with the advice of the Executive Council may from time to time 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.

3. The Registrar of Brands shall keep two registers one for the registration of the brands of horses and another for the registration of the brands of cattle and all brands registered with him shall be respectively entered therein with the names and addresses of their proprietors and such books shall be named and known respectively as the “Horse Register” and “Cattle Register” for the Colony and shall be ruled marked and divided in the forms of Schedules hereto annexed marked A and B respectively.

4. The owner 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 horses and one and the same brand for cattle respectively on such run or runs. But the owner of more runs than one where such runs are not contiguous to each other may use one and the same brand for the horses and one and the same brand for the cattle on each and every of such runs and the owner of any run offending against the provisions of this section shall upon conviction for every such offence in a summary way forfeit and pay any sum not exceeding twenty pounds. Provided that if there shall be cattle or horses of more than one person upon the same run a distinguishing brand may be used thereon and registered in addition to the brand of the owner of the run.

5. The brand for horses shall be not less than two inches in length and for cattle not less than three inches in length and where a brand shall consist of more letters signs or characters than one such letters signs or characters shall be not less than an inch apart from each other. And any person failing to comply with any of the requirements of this section shall on conviction for every such offence in a summary way forfeit and pay any sum not exceeding ten pounds. Provided always that it shall not be incumbent upon any person to register any numerals as a brand or part of a brand. Provided also that any person using a sign or character other than letters or numerals as a brand or part of a brand shall defray the expense of procuring a type or block for the purpose of advertising.

6. All horses and cattle shall be branded upon the portions of the body indicated by Schedules C and D hereto annexed and each succeeding brand other than upon the same portion of the body shall be in the order therein stated. Provided that every succeeding brand on the same portion shall be lower than and not less than an inch apart from the immediately preceding brand and horses and cattle shall be deemed to be branded with the particular brand which shall appear to be the last in order upon such horses and cattle according to the order hereinbefore prescribed. And any person failing to comply with any of the requirements of this section shall on conviction in a summary way for every such offence forfeit and pay any sum not exceeding fifty pounds.

*Registration of Brands.***Brands to be registered.**

7. Every person who shall use or intend to use a brand shall register the same with the Registrar of Brands. And any one who shall three months after the date of this Act coming into operation use or attempt direct or permit to be used a brand not so registered or who shall have in his possession any instrument commonly used for the making of any brand with intent to use the same shall on conviction for every such offence in a summary way forfeit and pay any sum not exceeding fifty pounds.

Mode of registration.

8. Every person intending to register his brand shall forward to the Registrar of Brands an application in the form of the Schedule annexed hereto marked E along with the authorized fees for the registration thereof. And in every case where more than one person has not made an application to register a similar brand such Registrar shall cause the name and residence of the applicant and a description of his brand to be notified at least three times in the *Gazette*. And if within two months from the date of the first notification of such brand no objection be made by any other person on account of his owning 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. Provided that in cases where two or more applications as aforesaid by different persons are made to register similar brands or where applications are made by persons to register brands similar to brands already registered such applicants shall receive notice thereof from such Registrar by registered letters addressed to them and on receipt of such notices such applicants shall arrange a modification of their brands so as to distinguish them from each other or (as the case may be) from brands already registered and shall within three months after the date of the receipt by them of such notice in like manner by registered letter communicate to such Registrar the modifications made by them and upon the receipt by such Registrar of such communications he shall after such notice register their respective brands so modified by them. And when no such modifications shall have been communicated to such Registrar within the time hereinbefore specified or when the brands so communicated are not so modified as to distinguish them from one another and from all brands applied to be registered or that may be already registered he may make such additions to or alterations of such brands as he may deem necessary so to distinguish them and shall give such applicants notice of such additions or alterations by registered letter addressed to them. And the brands so notified to such applicants shall be and be deemed to be their respective brands and shall after such notice be registered accordingly.

Order of registration.

9. Every application for the registration of any brand shall be numbered and entered by the Registrar of Brands in the order in which it is received and such Registrar shall send to the person making such application a certificate of application in the form of Schedule F hereto annexed. And upon every such brand being duly registered as aforesaid such Registrar shall transmit to the proprietor thereof a certificate of registration in the form of the Schedule hereto annexed marked G.

Quarterly returns of brands to be published.

10. At the end of each quarter of the year the Registrar of Brands shall prepare an alphabetical list in the form of Schedule H hereto annexed of the brands and of the names and residences of their respective proprietors thus registered during the preceding quarter as aforesaid and shall publish the same in the *Gazette*.

Annual return of brands.

11. Immediately after the thirty-first day of December in each year the Registrar of Brands shall compile and publish a Brand Directory for the Colony containing a correct and complete list of all

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all brands and of the names and residences of their respective proprietors so registered by him up to that date in the form of Schedule H hereto annexed.

12. When any brand which has been registered under this Act Mode of transferring brands. is intended to be transferred the registered proprietor thereof and the intended transferee shall execute a joint memorandum in the form of Schedule I hereto annexed and on the receipt of such memorandum duly executed as aforesaid and the authorized fees for such intended transfer the Registrar of Brands shall cancel the existing registration of such brand by the transferrer and register the same in the name of the transferee and shall issue a certificate to him in the form of Schedule G hereto annexed and such transferee shall thereupon be and be held to be the registered proprietor of such brand. And any person other than the proprietor thereof using any registered brand before the transfer of the same shall have been registered as hereinbefore provided or otherwise neglecting or refusing to comply with any of the provisions of this section shall on conviction for every such offence in a summary way be liable in a penalty not exceeding fifty pounds.

13. On the trial of any person charged with horse or cattle stealing it shall be competent for the Attorney General or other officer Entry of brand prima facie evidence of ownership. prosecuting on behalf of the Crown to give evidence that the brands appearing upon the animals alleged to have been stolen are the brands of the person charged on the 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 their consideration in determining the question of ownership.

14. Every poundkeeper shall keep copies of the latest edition of the Brand Directory and of the *Gazettes* containing the alphabetical lists of the brands and the names and residences of the proprietors thereof and shall on the receipt of a fee of one shilling permit a search in such Brand Directory and *Gazettes* at all reasonable hours. And every poundkeeper who shall fail to comply with any of the requirements of this section shall on conviction in a summary way for every such offence incur a penalty not exceeding five pounds.

15. When any cattle or horses are impounded the poundkeeper shall forthwith send notice thereof to the proprietor of the brand which shall appear last in order on such cattle or horses. And every poundkeeper who shall neglect or delay to send any such notice shall on conviction in a summary way for every such offence be liable to a penalty not exceeding ten pounds.

16. After the expiration of three months from the time of the coming of this Act into operation it shall be the duty of every person delivering horses or cattle to any drover to be driven to any place to give to such drover at the time of such delivery a statement signed by him and setting forth the date and place of delivery the number and description of the horses or cattle so delivered and the place to which they are to be driven as per Schedule J hereto and every person who shall fail to comply with this section shall be liable on conviction before any two Justices in a summary way to a penalty not exceeding twenty pounds.

17. After the expiration of three months from the time of the coming of this Act into operation if any drover found driving cattle or horses from one place to another shall not produce to any constable who may ask for such production a statement such as is directed to be given by the last preceding section comprising all the cattle then in his possession he may be apprehended by such constable and taken before any Justice of the Peace. And if on inquiry by any Justice in a summary

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summary way it shall be proved to the satisfaction of such Justice that such drover had such cattle or horses in his possession and did not produce such statement as aforesaid to order and adjudge that such drover shall pay a penalty not exceeding twenty pounds and any person purchasing or receiving from a drover any cattle or horses not described in such statement of delivery as aforesaid shall pay a penalty not exceeding fifty pounds Provided that this section shall not apply to any drover who shall have in his possession a certificate signed by any two Justices of the Peace and setting forth that such person is known to them to be a person of good repute.

Cattle in possession of persons not having such statement to be placed in nearest pound.

Not to affect mortgages under 11 Vict. No. 4.

False entry to be deemed a misdemeanor.

Fees—how disposed of.

Payment of expenses under this Act.

Services of Notices &c.

18. All cattle or horses found in possession of any person apprehended under the last preceding section may be placed in the public pound nearest to the place of apprehension to be there kept until ordered to be delivered up to some person claiming them as owner or otherwise by any two Justices of the Peace.

19. Nothing herein contained shall affect any mortgage or other security under the Act eleventh Victoria number four or any subsequent Act for amending or continuing the same.

20. Any Registrar of Brands Deputy Registrar or other person who shall knowingly and unlawfully insert or cause or permit to be inserted any false entry of any matter relating to any brand in any register certificate brand directory or list of brands or in any extract from any register certificate brand directory or list of brands or delivery note or who shall forge or alter or shall offer utter dispose of or put 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 therefrom or that which purports to be such an extract or entry or delivery note or who shall wilfully and unlawfully destroy deface injure or alter or cause to be destroyed defaced injured or altered any such brand register certificate directory list extract entry or delivery note or any part thereof with such intent or who shall knowingly and wilfully use the brand of any proprietor without his authority with such intent or who shall knowingly and wilfully disfigure alter or deface any registered brand branded upon any cattle or horses with such intent shall on conviction for every such offence be deemed guilty of a misdemeanor and being convicted thereof shall be liable at the discretion of the Court to imprisonment with or without hard labor for any period not exceeding three years.

21. All fees and moneys payable under this Act shall be according to the scale fixed by Schedule K hereto annexed and shall be paid to the Registrar of Brands who shall pay the 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 all moneys paid therefrom under and for the purposes of this Act.

22. 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 of money to be specified in such warrants as may be necessary for the purposes of this Act 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.

23. 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 either by registered letter or delivered to him personally or left at his usual place of abode or business.

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24. Every penalty for any offence against this Act and any fees made payable hereby shall be recovered in a summary way before two Justices of the Peace who may hear and determine the matter and the penalty inflicted by such Justices shall be levied by distress and sale of the offender's goods and chattels and in failure of distress shall be enforced in manner provided by the Act eleventh and twelfth Victoria chapter forty-three as adopted by the fourteenth Victoria number forty-three and any Acts amending the same. And all fines levied or paid under this Act shall go and be distributed after deduction of the expenses and costs incurred one half thereof to the informer or prosecutor and the other half to the Colonial Treasurer Sydney to be by him carried over to the Consolidated Revenue Fund and credited to the Registration of Brands Account.

25. This Act shall commence and come into operation on and after the first day of January one thousand eight hundred and sixty-seven and may be cited for all purposes as the "Registration of Brands Act of 1866."

Recovery of penalties.

Disposal of fines.

Commencement and short title.

SCHEDULES.

SCHEDULE A.
HORSE BRAND REGISTER.

No. of Application.	Date.	Brand.	Former Brand.	Applicant.		Date of publication in Gazette.	Amount of Registration Fee.	Remarks.
				Name.	Address.			

SCHEDULE B.
CATTLE BRAND REGISTER.

No. of Application.	Date.	Brand.	Former Brand.	Applicant.		Date of publication in Gazette.	Amount of Registration Fee.	Remarks.
				Name.	Address.			

SCHEDULE C.

Registration of Brands.

SCHEDULE C.

POSITION AND ORDER OF BRANDS ON HORSES.

Portion I.—Embracing the near shoulder.
 " II.— " the off shoulder.
 " III.— " the near rump hip and thigh.
 " IV.— " the off rump hip and thigh.
 " V.— " the near ribs and saddle.
 " VI.— " the off ribs and saddle.

SCHEDULE D.

POSITION AND ORDER OF BRANDS ON CATTLE.

Portion I.—Embracing the near rump hip and thigh.
 " II.— " the off rump hip and thigh.
 " III.— " the near back and ribs.
 " IV.— " the off back and ribs.
 " V.— " the near shoulder.
 " VI.— " the off shoulder.
 " VII.— " the near loin.
 " VIII.— " the off loin.

SCHEDULE E.

REGISTRATION OF BRANDS ACT OF 1866.

Application to register Brand.

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To the Registrar of Brands,
 Sydney.

Sir,

enclose the authorized fees for the registration of the brand belonging to
 as mentioned in the Schedule of particulars given below and have to request
 that you will register such brand accordingly.

Applicant.

Schedule referred to above.

Brand to be registered.		Former Brand.		Applicant.		No. of Cattle and Horses owned by Applicant.	Amount of Fees. £ s. d.
Horses.	Cattle.	Horses.	Cattle.	Name.	Address.		

I do hereby solemnly declare that the several matters and things contained in the above application are true to the best of my knowledge and belief.

(Applicant or Superintendent.)

Declared before me at
 day of 186

J.P.

SCHEDULE F.

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SCHEDULE F.

Sydney

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Certificate of Application.

No.

THIS is to certify that an application dated the for the registration Horses
 of the brand mentioned on the margin hereof this day received by me
 and numbered as above from with the sum of £ as the
 authorized fees for the registration thereof in terms of the provisions of the above-named Act. cattle.

Registrar of Brands.

SCHEDULE G.

Sydney

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REGISTRATION OF BRANDS ACT OF 1866.

Certificate of Registration.

No.

THIS is to certify that the brand mentioned on the margin hereof registered as the brand of this day duly in terms of the provisions of the above-named Act.

Registrar of Brands.

SCHEDULE II.

LIST FOR GAZETTE AND BRAND DIRECTORY.

Brand.	Former Brand.	Proprietor.	
		Name.	Address.

SCHEDULE I.

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MEMORANDUM OF TRANSFER.

To the Registrar of Brands.

I (or We) being the registered proprietor
 of the brand mentioned on the margin hereof having transferred the same to Horses
 do hereby request that you will make the necessary transfer
 to of such brand in your Registers and enclose herewith the sum of Cattle
 pounds as the authorized fees for such transfer.

Proprietor.

Transferree.

SCHEDULE J.

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Delivery Note.

THIS is to certify that I have here this day delivered into the charge of
 as my Bailee the mentioned in the Schedule below for the
 purpose of their being by him to at
 Owner.

Schedule referred to above.

Number.	Horses or Cattle.	Brands and Marks.	Route.	Destination.

Owner.

Witness.

SCHEDULE K.

SCALE OF FEES AND RATES.

£ s. d.

For registering any brand including the cost of advertising such brand in the *Gazette* for two consecutive issues and for publishing the same in the Brand Directory for the Colony as follows namely:—

The proprietor of 1 animal and not exceeding 20	...	...	...	0	5	0
” 1	”	10	...	...	...
” 20	”	100	...	...	...	0 10 0
” 10	”	20	...	...	...
” 100	”	500	...	...	...	0 15 0
” 20	”	50	...	...	...
” 500	”	1,000	...	...	...	1 0 0
” 50	”	100	...	...	...
” 1,000	”	3,000	...	...	...	1 5 0
” 100	”	200	...	...	...
” 3,000	”	6,000	...	...	...	1 10 0
” 200	”	400	...	...	...
” 4,000	”	6,000	...	...	...	1 15 0
” 400	”	600	...	...	...
” 6,000 and upwards	”	...	...	...	...	2 0 0
” 600	”	...	...	...	...

NOTE.—Rates for registration &c. of horses in larger figures.

For every search in any Register of Brands 0 1 0

For the transfer of any brand one-half of the above rates respectively according to the scale mentioned.

For any extract from the Brand Directory *Gazette* or Brand Register for the first one hundred words or portion thereof 0 1 0

For every additional one hundred words or portion 0 0 6

For notice of similarity of brand or of distinguishing brand fixed upon by the Registrar by post 0 1 0