

SWINE BRANDING ACT.

Act No. 5, 1940.

An Act to provide for the branding and earmarking of pigs; to amend the Swine Compensation Act, 1928-1935; and for purposes connected therewith. [Assented to, 6th May, 1940.]

George VI.
No. 5, 1940.

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 the same, as follows:—

1. (1) This Act may be cited as the "Swine Branding Act, 1940."

Short title
and com-
mencement.

(2) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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

Interpreta-
tion.

"Brand" means any letter, numeral, sign or character or any combination of these impressed or intended to be impressed upon any pig.

"Earmark" means a mark made by cutting the ear of a pig.

"Pig" includes boar, sow, barrow or pig of any age, sex or breed.

"Prescribed" means prescribed by this Act or by the regulations.

"Proprietor" means the person in whose name a brand or earmark is for the time being registered.

"Register" means the register of brands and earmarks.

"Registered" means registered under this Act.

"Regulations"

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“Regulations” means regulations made under this Act.

“Sell” includes barter and exchange, also sending, forwarding or delivering for sale, and “sale” has a corresponding interpretation.

Registrar and deputy registrar.

3. (1) The person for the time being holding the office of Registrar of Brands under the Registration of Stock Brands Act, 1921, as amended by the Registration of Stock Brands (Amendment) Act, 1923, shall be the Registrar for the purposes of this Act.

(2) (a) The Governor may appoint a deputy registrar for the purposes of this Act.

(b) During the absence from duty of the Registrar from any cause whatsoever the deputy registrar may act in the place of the Registrar, and whilst so acting shall be deemed to be the Registrar for the purposes of this Act.

Register of brands and earmarks.

4. The Registrar shall in the prescribed manner keep a register of brands and earmarks and shall enter therein the prescribed particulars.

Branding of pigs.

5. After the expiration of three months from the commencement of this Act—

(a) no person shall sell any pig unless within seven days next preceding the sale the pig has been branded in the prescribed manner and in the prescribed position with the registered brand of which such person is the proprietor;

(b) no person shall send, forward or deliver or cause to be sent, forwarded or delivered to an abattoir or slaughter-house any pig unless within seven days next preceding the sending, forwarding or delivery, as the case may be, the pig has been branded in the prescribed manner and in the prescribed position with the registered brand of which such person is the proprietor.

Exemptions. Provided that the provisions of this section shall not apply—

(a) to any person who is the owner of not more than three pigs and is the holder of a license issued under the provisions of section six of this Act;

(b)

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(b) in respect of any pig which is not more than three months of age.

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6. Any person may at any time apply to the Registrar for a license to keep not more than three pigs. Application for a license shall be in or to the effect of the prescribed form and shall be accompanied by the prescribed fee. A license shall be in or to the effect of the prescribed form.

License to keep three pigs.

7. (1) Application for the allotment and registration of a brand shall be made to the Registrar in or to the effect of the prescribed form and shall be accompanied by the prescribed fee.

Allotment and registration of brands.

(2) The Registrar shall allot a brand to the applicant and register the brand in the name of the applicant as proprietor thereof.

(3) Upon registration of a brand the Registrar shall issue to the proprietor a certificate of registration in or to the effect of the form prescribed.

8. (1) Any person may apply to the Registrar for the registration of an earmark. The application shall be in or to the effect of the prescribed form and shall be accompanied by the prescribed fee.

Registration of earmarks.

(2) An earmark shall not be registered if, in the opinion of the Registrar, it is identical with or likely to be mistaken for any other earmark registered.

(3) Upon registration of an earmark, the Registrar shall register the name of the applicant as proprietor of the earmark and shall issue to him a certificate in or to the effect of the form prescribed.

(4) A person making an earmark on a pig shall make the mark on the right ear of the pig.

9. A registered brand or earmark may be transferred upon the proprietor and the transferee executing a memorandum in the prescribed form and lodging the same with the Registrar together with the prescribed fee. Upon receipt of such memorandum and the prescribed fee the Registrar shall record the transfer in the register and shall register the brand or earmark in the name of the transferee and issue to him a certificate in the prescribed form.

Transfer of brand or earmark.

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Death of
proprietor.

10. (1) Upon the death of a proprietor of a brand or earmark his personal representative shall within six months after the death notify the Registrar of the fact and of the date thereof.

(2) The personal representative shall be entitled to use the brand or earmark until the expiration of the said period of six months or until the brand or earmark is registered in the name of his nominee whichever date is the earlier.

(3) The personal representative may within the said period of six months apply for the registration of the brand or earmark in the name of his nominee.

(4) If application is not made and the prescribed fee paid within that period, the registration of the brand or earmark shall be cancelled by the Registrar.

Cancellation
of brand or
earmark.

11. (1) If a proprietor of a brand or earmark does not further require the use of the brand or earmark, he shall immediately notify the Registrar of the fact.

(2) Notwithstanding the absence of any such notice, the Registrar shall, if he is satisfied that the brand or earmark of a proprietor is no longer required by him, cancel the registration of the brand or earmark.

(3) Where the proprietor of a brand is a company, firm or partnership, and the Registrar is satisfied that such company, firm or partnership has been wound up or dissolved, he shall cancel the registration of the brand or earmark.

Restoration
to register.

12. Any brand or earmark, the registration of which is cancelled, may on application to the Registrar in the prescribed form and on payment of the prescribed fee be restored to the register.

Powers of
entry and
inspection.

13. (1) The Registrar, a deputy registrar, any inspector appointed under the Stock Diseases Act, 1923-1934, or any member of the police force may—

- (a) with or without assistants, enter any land or premises or upon any vehicle or ship for the purpose of inspecting any pig or carcase of a pig or any brand or earmark or any branding or earmarking instrument or any books, documents or records relating to dealings in pigs or carcasses of pigs;

(b)

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- (b) require the production of any pig or any branding or earmarking instrument and take possession of the same; and
 - (c) require any person to furnish information as to the ownership of any pig or of any branding or earmarking instrument.

(2) Any person who hinders, obstructs, or interferes with any person acting in pursuance of the powers and authorities conferred by this section or who neglects or refuses to produce such books, documents, records, pig or the branding or earmarking instrument so required to be produced or to furnish the information required or furnishes false information shall be liable to a penalty not exceeding twenty pounds.

14. Any person who—

Offences.

- (a) forges any certificate referred to in this Act or unlawfully alters any certificate issued under this Act or utters or puts off knowing the same to be forged or unlawfully altered any certificate referred to in this Act;
- (b) brands or earmarks with his registered brand or earmark any pig of which he is not the owner;
- (c) brands or earmarks any pig with a brand or earmark of which he is not the proprietor;
- (d) destroys or defaces a brand or earmark on any pig;
- (e) alters an earmark on any pig or places any additional earmark on the right ear of a pig which has been earmarked with a registered earmark;
- (f) alters a brand on any pig or places any other brand, whether registered or not, within three inches of the brand already on such pig;
- (g) cuts off more than one-quarter of the ear of a pig;

shall be liable on summary conviction to a penalty not exceeding one hundred pounds.

15. Every person who commits a breach of any of the provisions of this Act or of any regulation for which a General
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penalty

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penalty is not specially provided shall be liable on summary conviction for every such offence to a penalty not exceeding fifty pounds.

Summary jurisdiction.

16. Any proceeding in respect of an offence against this Act or any regulation made thereunder shall be heard and determined in a summary way before a Court of Petty Sessions in accordance with the provisions of the Justices Act, 1902.

Certificate of Registrar to be evidence.

17. In any proceedings against any person for an offence against this Act or the regulations thereunder a certificate by the Registrar, of whose signature judicial notice shall be taken—

- (a) stating that a brand or earmark was or was not registered at any time stated in the certificate;
- (b) setting out any particulars which are contained in the register;
- (c) stating that any person was not at the date specified in the certificate the holder of a license issued under section six of this Act;

shall be evidence of the facts stated in the certificate.

Compensation under Swine Compensation Act, 1928-1935.

18. (1) In any application for compensation under the Swine Compensation Act, 1928-1935, in respect of a carcase or a portion of a carcase of a pig condemned at any abattoir under the authority of any Act as unfit for human consumption because of disease, the registered brand upon the carcase shall be specified in the application.

(2) If the registered brand is not so specified or if the carcase does not bear a registered brand, no compensation shall be payable.

Service of notices.

19. Where it is necessary under this Act or the regulations 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 or last known place of abode or business.

Additional brands or earmarks may be required.

20. The regulations may require that all pigs or prescribed classes of pigs shall be branded or earmarked by the prescribed persons in the prescribed manner. Any such branding or earmarking shall be in addition to any branding required by any other provision of this Act.

Such

Such regulations may apply to the whole State or to such portions of the State as may be specified by the regulations.

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21. (1) The Governor may make regulations not inconsistent with this Act prescribing any matter or thing which by this Act is required or permitted to be prescribed or which is necessary or convenient to be prescribed for giving effect to this Act, and without limiting the generality of the foregoing power may make regulations with respect to the following matters:—

Regulations.

- (a) the registration, cancellation of registration and transfer of brands and earmarks;
- (b) the construction and use of branding instruments;
- (c) the minimum and maximum sizes of brands and the position and use of brands and earmarks;
- (d) prescribing the fees payable under this Act;
- (e) prescribing the forms to be used under this Act;
- (f) the allotment to any agricultural or kindred society or stock breeders' association of brands to be used for specific purposes;
- (g) requiring the keeping of books and records relating to pigs or carcasses of pigs by the persons specified in the regulations.

(2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof.

(3) Any regulation made under this Act may apply to pigs generally or to a particular class of pigs or to pigs of a particular age or within a particular age limit.

- (4) The 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 the regulations;
 - (iii) be laid before both Houses of Parliament within fourteen sitting days from publication if Parliament is in session or, if not, then within fourteen sitting days after the commencement of the next session.

If

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If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House, disallowing any regulation or part thereof, such regulation or part shall cease to have effect.
