

Queensland



# BRANDS ACT 1915

**Reprinted as in force on 26 July 1994  
(includes amendments up to Act No. 15 of 1994)**

**Reprint No. 1**

**This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
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# Information about this reprint

This Act is reprinted as at 26 July 1994. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (Pt 4, Div 2)
- update references (Pt 4, Div 3)
- express gender specific provisions in a way consistent with current legislative drafting practice (s 24)
- use different spelling consistent with current legislative drafting practice (s 26(2))
- use standard punctuation consistent with current legislative drafting practice (s 27)
- use conjunctives and disjunctives consistent with current legislative drafting practice (s 28)
- use expressions consistent with current legislative drafting practice (s 29)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current legislative drafting practice (s 35)
- omit provisions that are no longer required (ss 39 and 40)
- omit unnecessary referential words (s 41)
- omit historical notes (s 42)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43).

Also see Endnotes for—

- **details about when provisions commenced**
- **any provisions that have not commenced and are not incorporated in the reprint**
- **further information about editorial changes made in the reprint, including—**
  - **Table of changed names and titles**
  - **Table of changed citations and remade laws**
  - **Table of obsolete and redundant provisions**
  - **Table of renumbered provisions**
  - **Table of comparative legislation.**

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## **BRANDS ACT 1915**

[as amended by all amendments that commenced on or before 26 July 19942]

### **An Act to consolidate and amend the law relating to brands and marks on stock**

#### **Short title and commencement of Act**

1. This Act may be cited as the *Brands Act 1915*, and shall come into operation on 1 January 1916<sup>3-8</sup>.

#### **Repeal of certain enactments—Schedule**

2.(2) However, without limiting the operation of the *Acts Shortening Act 1867*—

- (a) except when it is in this Act otherwise expressly provided, such repeal shall not restrict or affect any right or privilege conferred upon or acquired by any owner under the enactments hereby repealed; and
- (b) all things lawfully done under the said enactments, and in force or subsisting at the commencement of this Act, shall continue in full force and effect, and shall, so far as is consistent with this Act, be deemed to have been done under and for the purposes of this Act; and
- (c) in particular all brands and marks of whatever kind issued pursuant to and registered under the said enactments shall be deemed to have been issued and to be registered under this Act, and when used on or in connection with stock shall be deemed to have been used pursuant to and under this Act, and may continue to be used, and shall have effect accordingly.

## Interpretation

3. In this Act—

“**brands directory**” means the list of horse and cattle brands, and of cattle earmarks, compiled and published by the registrar.

“**branding instrument**” means an instrument or contrivance used for branding stock.

“**cattle**” means any bull, cow, ox, heifer, steer, or calf.

“**cattle earmark**” means any mark or cut upon the ear of cattle registered for use in conjunction with an owner’s horse and cattle brand.

“**cow**” includes a spayed cow.

“**distinctive brand**” means any registered brand other than a horse and cattle brand which is set apart by the registrar for a specific purpose or which the owner is empowered to brand upon the cheek or twist of any horses, cattle, or camels to denote—

- (a) the ownership of the individual members of a family or partnership where a horse and cattle brand is registered conjointly in the names of members of a family or partnership; or
- (b) the class, age, or description of horses, cattle, or camels, or any other fact which the owner desires to denote.

“**distinctive mark**” means any mark or cut, which an owner is empowered to make upon the ear of sheep, or goats to denote their age or class, and whether registered or unregistered.

“**district**” means a district constituted under this Act.

“**goat**” means any male or female goat or any kid.

“**heifer**” includes a spayed heifer.

“**holding**” means any run, station, farm, freehold, or leasehold, or place where stock are kept or depastured and any premises or saleyard.

“**horse**” means any horse, mare, gelding, colt, filly, ass, or mule.

“**horse and cattle brand**” means the permanent impression of any letter, numeral, sign, or character branded upon any horses, cattle, or camels, and registered, and includes a symbol brand but not a distinctive brand.

“**inspector**” means the registrar and any inspector appointed under this Act.

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“**near side**” means the left side of stock.

“**off side**” means the right side of stock.

“**owner**”, used with reference to any brand or earmark of whatever kind, or any stock, or any holding, means the owner jointly or in severalty, or the authorised agent of or superintendent or manager for such owner and, in relation to stock or any holding, includes a lessee of such stock or, as the case may be, holding.

“**pig**” means a boar, sow, barrow or pig of any age, sex or breed.

“**pig brand**” means any tattoo brand permanently imprinted on the side of pigs and registered.

“**pig brands directory**” means the list of registered pig brands compiled and published by the registrar.

“**pliers**” means an instrument or contrivance approved by the registrar or any inspector, and used for earmarking stock.

“**registered**” means registered under this Act.

“**register**” means any register kept in pursuance of this Act.

“**registrar**” means the registrar of brands or any deputy registrar of brands appointed under this Act.

“**requisition**” means any order, request or requisition whether given orally or in writing.

“**residence**” means the residence, house, homestead, or head station of any owner.

“**saleyard**” means any yard, premises, or place where stock are sold or offered or exposed for sale, or where stock are held or kept for the purpose of being sold or offered or exposed for sale, or where stock are kept or held on sale.

“**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.

“**sheep**” means any ram, ewe, wether, or lamb.

**“sheep brand”** means any fire brand permanently impressed on the face or horn, or any paint brand imprinted on the wool on any portion of any sheep or upon any goats, and registered.

**“sheep brands and earmarks directory”** means the list of registered sheep brands and sheep earmarks compiled and published by the registrar.

**“sheep earmark”** means any registered mark or cut upon the ear of sheep or upon any goats.

**“spay mark”** means a circular mark not less than 15 mm nor more than 40 mm in diameter made or cut wholly within the near ear of any head of cattle.

**“stock”** means any horse, cattle, or camel, and any sheep, pig or goat.

**“symbol brand”** means any horse or cattle brand consisting of a device or symbol registered as a symbol brand, and of such shape and pattern as the registrar approves, and which can be briefly described in writing.

**“travelling sheep”** means sheep which—

- (a) are being travelled, driven or carried elsewhere than in a holding; or
- (b) although in a holding at the time a sheep brand or sheep earmark is imprinted or made thereon, are at that time intended by their owner to be travelled, driven or carried elsewhere than in such holding within 7 days after such branding or marking and are so travelled, driven or carried within that period or, if not within that period on account of reasonable cause, then as soon as is reasonably practicable after such branding or, as the case may be, marking.

### **Officers and districts**

**4.(1)** The Governor in Council may from time to time appoint a registrar of brands and a deputy registrar of brands, and such inspectors and other officers as may be necessary for the effectual administration of this Act.

**(1A)** Every police officer shall, without any appointment whatsoever under this Act, be and be deemed to be *ex officio* an inspector duly appointed under this Act.

(2) The Governor in Council may from time to time, by order in council—

- (a) appoint any part of the State to be a district for the purposes of this Act;
- (b) alter the boundaries of any district;
- (c) abolish any district;
- (d) assign districts to any inspector or inspectors.

(3) Unless the Governor in Council otherwise directs, any inspector may exercise and discharge the inspector's powers and duties in any part of the State notwithstanding that a district or districts may have been assigned to the inspector.

### **Application for brand or earmark**

5. Any person who desires to become the owner of a registered brand or earmark of whatever kind under this Act shall deliver or transmit to the registrar an application therefor in the prescribed form, accompanied by the prescribed fee.

### **Registration of horse and cattle brands and cattle earmarks**

6.(1) The registrar, if satisfied that an application for a horse and cattle brand or cattle earmark is in conformity with this Act, shall allot to the applicant a horse and cattle brand or cattle earmark, as the case may be and shall register such brand or, as the case may be, earmark in the name of the applicant.

(1A) However, if, in the opinion of the registrar, any horse and cattle brand or cattle earmark applied for is similar to or easily convertible into any other horse and cattle brand or, as the case may be, cattle earmark registered in the name of a person who uses or is likely to use it in the same locality as the brand or earmark applied for is likely to be used the registrar shall make such modification in the brand or earmark applied for as renders it dissimilar to such other brand or earmark or, as the case may require, less easily convertible into such other brand or earmark.

(2) A horse and cattle brand other than a symbol brand shall consist of letters, numerals, signs or characters or any combination thereof.

(2A) The shape, pattern and arrangement of the letters, numerals, signs or characters comprising a horse and cattle brand shall be as the Minister, subject to this Act, determines.

### **Symbol brands**

(3) The registrar, if satisfied that an application made by the owner of a horse and cattle brand (other than a symbol brand) for a symbol brand is in conformity with this Act, shall allot to the applicant a symbol brand and shall register the same in conjunction with such horse and cattle brand.

(3A) Such a symbol brand may be imprinted upon an animal in accordance with this Act either instead of or in addition to such horse and cattle brand.

(3B) Upon application by a person to whom a symbol brand has been or is about to be allotted the registrar may allot to the applicant a specified position upon which such symbol brand may be imprinted in the case of horses, cattle or camels acquired by the person and which have been branded prior to such acquisition.

(3C) When a specified position has been so allotted the owner of the symbol brand concerned may imprint such brand upon that position notwithstanding any other provision of this Act.

(3D) A symbol brand shall not be registered nor shall any person use such a brand unless it includes a dot to the right of and on the line with the lower part of the symbol brand.

(3E) Such a dot upon any horse, camel or head of cattle shall be evidence and, in the absence of evidence to the contrary, conclusive evidence that the symbol brand of which it forms a part was, at the time of the imprinting of such brand, registered in Queensland.

### **Size of brands**

(4) A letter, numeral, sign or character included in a horse and cattle brand (other than a symbol brand) shall have a face depth of not less than 30 mm nor more than 65 mm.

(4A) 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.

**(4B)** A symbol brand shall have a face depth of not less than 30 mm nor more than 80 mm.

### **Cattle earmarks**

**(5)** The registrar shall register a cattle earmark only in conjunction with a horse and cattle brand and for use only within the district in which the applicant therefor indicates it is proposed to use such earmark.

**(6)** A person shall not use a cattle earmark except—

- (a) upon cattle and in conjunction with the horse and cattle brand in conjunction with which such earmark is, for the time being, registered; and
- (b) in the district for use within which such earmark is, for the time being, registered.

**(6A)** Every registered cattle earmark shall consist of 1 or more cuts on either or both of the ears of cattle, and shall be arranged and placed in such positions as may be prescribed, and shall be made with pliers.

**(6B)** However, the cut or cuts when made on the ear shall not remove more than  $\frac{1}{3}$  of the ear.

**(6C)** The registrar may allot to any applicant for or owner of a horse and cattle brand and register in his or her name in conjunction with such brand more cattle earmarks than 1 for use in conjunction with such brand.

**(6D)** However—

- (a) notwithstanding the provisions of subsections (1) and (1A), the registrar shall not allot a second or third cattle earmark for use in conjunction with one and the same horse and cattle brand in one and the same district unless the registrar is satisfied that such allotment is justified; and
- (b) a person shall not be allotted more than 3 cattle earmarks for use in conjunction with one and the same horse and cattle brand in one and the same district.

**(6E)** When any head of cattle has been earmarked, whether with a registered earmark or otherwise, it must not again be earmarked with a registered earmark.

**(6F)** A person shall not make upon an ear of any head of cattle a mark or

cut except a registered cattle earmark.

(6G) However, this provision shall not be construed to prohibit the making of—

- (a) a spay mark upon the near ear of a cow or heifer which has been spayed; or
- (b) a tattoo within either ear of any head of cattle; or
- (c) a mark or cut upon either ear of any head of cattle necessary for the insertion in or the affixing to that ear of a tag; or
- (d) a mark or cut wholly within the off ear of any head of cattle such mark or cut being of such a shape and size and made for such a purpose as the Minister approves; or
- (e) a registered cattle earmark upon the ear of a head of cattle previously marked in accordance with paragraph (a) or (d); or
- (f) a mark or cut on a head of cattle authorised under another Act.

(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 the registrar 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 the registrar 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.

### **Order of branding horses, camels and cattle**

7.(1) Save where this Act otherwise provides a person shall not imprint a brand upon any horse, camel or head of cattle except upon a position prescribed by this section and in accordance with the provisions of this

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section.

(2) For the purposes of this section there shall be deemed to be upon every horse and camel 6 positions to be used for branding located on the animal as follows—

- (a) first position—near shoulder;
- (b) second position—off shoulder;
- (c) third position—near quarter or near thigh;
- (d) fourth position—off quarter or off thigh;
- (e) fifth position—near ribs;
- (f) sixth position—off ribs.

(3) For the purposes of this section there shall be deemed to be upon every head of cattle 4 positions to be used for branding located on the animal as follows—

- (a) first position—neck;
- (b) second position—rump or thigh;
- (c) third position—ribs;
- (d) fourth position—shoulder.

(4) A person who is about to imprint the first brand on any horse, camel or head of cattle shall—

- (a) if the brand is a horse and cattle brand—imprint the same upon any one of the positions set forth in subsections (2) and (3) in relation to the type of animal concerned; or
- (b) if the brand is a symbol brand—imprint the same upon any one of the said positions or upon the cheek of the animal concerned.

(5) A person who is about to imprint a second brand on any horse, camel or head of cattle branded only on the cheek with a symbol brand shall imprint such brand upon any one of the positions set forth in subsections (2) and (3) in relation to the type of animal concerned.

(6) Subject to the provisions of subsection (5), a person who is about to imprint a second or subsequent brand on any horse, camel or head of cattle shall imprint such brand—

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- (a) if there is sufficient space—
  - (i) upon the same position as and exactly beneath the brand which was the last imprinted in accordance with the provisions of this Act; and
  - (ii) so that the distance between the topmost extremity of such second or, as the case may be, subsequent brand and the lowest extremity of such last imprinted brand shall be not less than 35 mm nor more than 65 mm; or
- (b) if there is not sufficient space to imprint such brand in accordance with the provisions of paragraph (a)—upon the position next succeeding the position upon which such last imprinted brand appears as set forth in subsections (2) and (3) in relation to the type of animal concerned.

(7) A person who is about to imprint a brand on a horse, camel or head of cattle which is so branded that there is not sufficient space on the last position set forth in subsections (2) and (3) in relation to the type of animal concerned to imprint such brand shall imprint such brand upon the first of the preceding positions as set forth in subsection (2) or (3) in relation to the type of animal concerned on which there is sufficient space to imprint such brand.

(8) Save where this Act otherwise provides, a person about to imprint a second or subsequent brand on any head of cattle shall imprint such brand on the same side of the animal concerned as bears the brand last imprinted in accordance with the provisions of this Act unless there is not sufficient space on such side for the purpose.

(9) Every branded horse, camel and head of cattle shall be deemed to have been last branded with the brand which appears to be the brand last imprinted thereon in accordance with the provisions of this section.

**Manner of imprinting horse and cattle brands**

**7A.(1)** A person shall so imprint the letters, numerals, signs and characters comprising a horse and cattle brand that—

- (a) they appear on the animal concerned consistent with the design of such brand;

- (b) the lateral extremity of one such letter, numeral, sign or character as it appears on the animal concerned is no more than 25 mm from the nearest lateral extremity of the contiguous such letter, numeral, sign or character.

### **Design of certain branding instruments**

(2) A person shall not use a branding instrument bearing a letter, numeral, sign or character which, consistently with the design of the horse and cattle brand concerned is to be imprinted in a position other than the vertical unless such instrument also bears another letter, numeral, sign or character included in the horse and cattle brand concerned.

### **Age numerals and stud and herd book references**

**8.(1)** Notwithstanding any other provision of this Act the person imprinting the first registered brand upon any horse, pig or head of cattle may, in addition, imprint upon such animal in accordance with the provisions of this section any numeral or numerals to denote the age of such animal or as a reference to a stud or herd book which contains a description of such animal or the particulars of its breeding.

(2) A person imprinting a numeral or numerals pursuant to this section shall imprint the same—

- (a) exactly beneath the registered brand imprinted on the animal concerned or, where there is a numeral or numerals already imprinted beneath such brand pursuant to this section, exactly beneath such numeral or numerals; and
- (b) so that the topmost extremity of each such numeral is no less than 35 mm nor more than 65 mm from the lowest extremity of such brand or, where there is a numeral or numerals already imprinted beneath such brand pursuant to this section, from the lowest extremity of such numeral or numerals.

(2A) However, in the case of any head of cattle branded on the ribs a person may imprint a numeral or numerals pursuant to this section—

- (a) exactly above the registered brand imprinted on the animal concerned; and
- (b) so that the lowest extremity of each such numeral is no less than

35 mm nor more than 65 mm from the topmost extremity of such brand.

(3) A numeral imprinted pursuant to this section shall have a face depth of not less than 30 mm nor more than 65 mm.

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

### **Distinctive brands**

**9.(1)** The registrar, if satisfied that an application for a distinctive brand is in conformity with this Act, shall allot to the applicant a distinctive brand and shall register such brand in the name of the applicant in conjunction with a horse and cattle brand for use in conjunction with such brand.

**(1A)** The registrar shall not allot a distinctive brand to a person who is not the registered owner of a horse and cattle brand.

**(1B)** A person shall not use a distinctive brand except in conjunction with the horse and cattle brand in conjunction with which it is registered.

**(1C)** Where the registered person to whom a distinctive brand has been allotted transfers the horse and cattle brand allotted to the person to another person the registrar shall cancel the registration of the distinctive brand so allotted.

**(2)** A distinctive brand shall be of such a character, design, shape and size as the Minister, subject to this Act, determines.

**(3)** A person imprinting a distinctive brand upon any horse, camel or head of cattle shall imprint the same upon the cheek or twist of the animal concerned.

### **Special brands**

**9A.(1)** The registrar, if satisfied that an application for a special brand is in conformity with this Act, shall allot to the association by whom or on whose behalf such application is made, a special brand and shall register such brand in the name of such association or its nominee.

**(1A)** In the case of registration in the name of a nominee the register shall show that such registered owner holds such special brand as nominee of the association concerned.

**(1B)** Upon application by or on behalf of an association in that behalf the registrar may, from time to time, cancel the registration of the holder of such a special brand and register another nominee of such association as holder of such special brand in the holder's stead.

**(2)** A person shall not apply for a special brand unless the person applies as or on behalf of an association of persons formed with a view to establishing, fostering or improving the breeding of a particular breed of stock or of stock generally of a particular type and which is approved by the Minister.

**(3)** A special brand shall be of such character, design, shape and size as the Minister, subject to this Act, determines.

**(4)** A person imprinting a special brand shall imprint the same upon such portion of the animal concerned as the registrar specifies (the registrar being hereby thereunto empowered).

### **Registration of sheep brands and marks**

**10.(1)** The registrar, if satisfied that an application for a sheep brand or sheep earmark is in conformity with this Act, shall allot to such applicant a sheep brand or sheep earmark as the case may be and shall register such brand or, as the case may be, earmark in the name of the applicant.

**(1A)** However, if, in the opinion of the registrar, any sheep brand or sheep earmark applied for is similar to or easily convertible into any other sheep brand or, as the case may be, sheep earmark registered in the name of a person who uses it or is likely to use it in the same locality as the brand or earmark applied for is likely to be used the registrar shall make such modification in the brand or earmark applied for as renders it dissimilar to such other brand or earmark or, as the case may require, less easily convertible into such other brand or earmark.

**(2)** The registrar shall register a sheep brand or a sheep earmark for use only within a particular district to be specified by the registrar and notified by the registrar to the applicant.

**(2A)** A person shall not use a sheep brand or sheep earmark elsewhere than in the district for use within which the same is registered except in the case of travelling sheep.

**Position of brands and marks**

(3) Every fire brand shall be imprinted upon the position on the face or horn specified in the prescribed certificate of registration of such fire brand, and every paint brand shall be imprinted—

- (a) using the colour; and
- (b) upon the position on the shoulder, ribs back or rump;

specified in the prescribed certificate of registration of such paint brand.

(3A) The letter ‘T’ in paint shall not be registered.

(3B) All sheep brands and sheep earmarks shall be branded and made in such manner as may be prescribed.

(3C) However—

- (a) the cut or cuts when made on the ear shall not remove more than  $\frac{1}{3}$  of the ear;
- (b) no mark shall be made on that ear which is already marked with a registered sheep earmark;
- (c) all earmarks shall be made with pliers.

(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 the registrar 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 the registrar 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.

**Distinctive marks may be used**

**11.(1)** Any owner of a registered sheep mark or sheep brand may use any number of distinctive marks to denote the age or class of the owner's sheep, or goats, but such distinctive marks shall not be made on the same ear as the registered sheep earmark and shall not be such as, in the opinion of the registrar or an inspector, is similar to or readily convertible into any sheep earmark registered and used in the same locality.

(2) Such distinctive marks may upon application be registered.

**Registration of pig brands**

**11A.(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 1 or more properties; or
- (b) in the district;

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

(2A) 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; or
- (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.

(2B) 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.

(3A) 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.

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

(4A) 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.

(5A) The Chief Inspector of Stock within the meaning of the *Stock Act 1915* 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 the registrar 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 the registrar 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 the registrar 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.

**Certificate of registration**

12. Upon the registration of any brand or earmark of whatever kind under this Act, the registrar shall deliver or transmit to the person to whom it is allotted a certificate of registration in the prescribed form.

**Register**

13. The registrar shall keep registers, in the prescribed form, of all brands and earmarks of whatever kind allotted and registered under this Act.

**Distinguishing brand to be used by each public pound**

14.(1) The registrar may allot to a local government a special brand to be used in connection with a public pound conducted by such local government and shall register such brand in the name of such local government.

(2) The keeper of such pound shall, on the sale of any horses or cattle impounded in such pound, brand the same with such brand on the positions and in the order prescribed, in such manner as to show that the said brand is the last brand at that time imprinted on such horses or cattle.

(3) Any poundkeeper who fails to comply with this section shall be liable to a penalty not exceeding \$400.

**Special brands etc. to public instrumentalities**

14A.(1) Upon application therefor by or on behalf of a department of the Government of the State or a statutory body established for public purposes by or under legislation of the State or such other body performing functions of a public nature as the Minister approves the registrar, if the registrar is satisfied that such application is in conformity with this Act, shall allot to the department, statutory body or, as the case may be, body by or on whose behalf such application is made 1 or more special brands or special earmarks and shall register every such brand or, as the case may be, earmark in the name of such department, statutory body or body or a nominee of any of the same.

(2) A nominee in whose name registration of a special brand or special earmark is effected under this section may be designated by name or by reference to an office which the nominee holds or as the holder for the time

being of a particular office.

(3) A special brand shall be of such character, design, shape, size and (in the case of a paint brand) colour as the Minister, subject to this Act, determines.

### **Special brands to the Commissioner of the Police Service**

**14B.(1)** The registrar may upon application and with the approval of the Minister allot to the Commissioner of the Police Service a special brand or special brands and shall register every special brand so allotted in the name of the Commissioner of the Police Service.

(1A) A special brand so allotted and registered shall be of such character, design, shape, size and (in the case of a paint brand) colour as the Minister, subject to this Act, determines.

(2) A police officer who lawfully has possession of horses, cattle or sheep in connection with the commission of an offence may, solely for the purpose of identification, brand those horses, cattle or sheep with a special brand registered pursuant to this section.

(3) The branding of horses, cattle and sheep with a special brand pursuant to this section—

- (a) is lawful notwithstanding any other Act;
- (b) does not affect the right of ownership of those horses, cattle and sheep had by any person.

### **Duty as to brands and earmarks directories**

**15.** Every poundkeeper, inspector and clerk of the court shall keep at his or her 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.

**Transfers**

**16.(1)** Any person wishing to transfer the right to any registered horse and cattle brand, and the person to whom such right is intended to be transferred, shall make and sign, in the presence of a justice of the peace or barrister or solicitor or legal practitioner or commissioner of the Supreme Court, a memorandum in the prescribed form, and shall deliver or transmit the same to the registrar together with the prescribed fee.

**(1A)** The registrar shall, upon the receipt of such memorandum and fees, cancel the original registration of such brand standing in the name of the transferor, and shall re-register such brand in the name of the transferee, and shall deliver or transmit to the transferee a notification of transfer in the prescribed form.

**(1B)** Such transferee shall thereafter be deemed to be the person having the exclusive right to use such brand.

**(1C)** Any cattle earmark or symbol brand registered in conjunction with such brand shall, unless otherwise specified by the transferor, be transferred at the same time to the same person.

**(1D)** However, in the case of any cattle earmark it shall not be transferred unless the registered horse and cattle brand is to be used in the district for which the cattle earmark was originally registered.

**(2)** The right to use any sheep brand or sheep earmark may be transferred in like manner; but such sheep brand or sheep earmark shall not, except in the case of travelling sheep, be used by the transferee in any district other than that for which it was originally registered.

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

**(2B)** However, 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.

**(3)** The registrar shall keep a register in the prescribed form, in which all such transfers shall be recorded.

**Surrender and cancellation of brand or mark**

**17.(1)** The owner of any registered brand or earmark of whatever kind may surrender the same.

**(2)** The registrar shall, upon receipt of notice of such surrender, cancel the registration of the same, and, subject to this Act, it may then be registered in the name of another person.

**Power of refusal of Minister**

**17A.(1)** The Minister in the Minister's discretion shall have power and authority—

- (a) to refuse to register any brand or mark in the name of an applicant; or
- (b) to refuse to transfer any brand or mark to any person; or
- (c) to refuse to alter the registration of any brand or mark registered in any owner's name;

on a certificate furnished to the Minister by the registrar setting forth such facts as appear to the registrar warranting any such refusal and recommending to the Minister any such refusal aforesaid accordingly.

**(2)** The registrar may require any inspector to furnish to the registrar particulars as to the fitness of any applicant for or registered owner of any brand or mark to be allotted or, as the case may be, to be registered as owner of such brand or mark.

**(3)** An inspector who furnishes to the registrar a report on the fitness of any person to be allotted or to be registered as owner of any brand or mark (whether or not such inspector was required by the registrar so to do) shall not incur any liability in respect of such report.

**Returns of registered brands and earmarks**

**18.(1)** A person who is the owner of a registered brand or registered earmark on 1 January of any year shall, before 31 January of that year, furnish to the registrar a return in the prescribed form of all such brands or earmarks.

**(1A)** Where 2 or more persons are the owner of a registered brand or

registered earmark it shall be sufficient compliance with the provisions of subsection (1) if 1 of such persons furnishes the return as prescribed by the subsection.

(2) If a person required by subsection (1) to furnish a return fails to furnish such return at any time during 3 consecutive years the registrar may give to such person a notice calling upon the person to show cause why the registration of the brand or earmark in question should not be cancelled.

(3) If such cause is not shown to the satisfaction of the registrar within 3 months of the giving of such notice the registrar may cancel the registration of such brand or earmark.

(4) Where 2 or more persons are registered as the owner of a registered brand or registered earmark the registrar, if the registrar gives a notice prescribed by subsection (2), shall give such a notice to each such person.

### **Cancellation of brand or mark for similarity**

**18A.(1)** When in the opinion of the registrar any registered brand or earmark which is used or is likely to be used in a locality is similar to or easily convertible into another registered brand or earmark which is used or is likely to be used in the same locality the registrar shall certify accordingly to the Minister.

(1A) Upon a certification by the registrar, the Minister may cause the registration of the brand or earmark which last became a brand or, as the case may be, earmark used or likely to be used in the locality in question to be cancelled and the registered owner thereof to be notified forthwith.

(2) The registered owner of a brand or earmark which has been cancelled pursuant to this section may apply for a brand or, as the case may be, earmark in lieu of the one so cancelled and the registrar shall, if the registrar receives such application within 90 days of such cancellation, without payment of any fee, but subject to the provisions of section 6(1) and (1A) and section 10(1) to (2) where those provisions respectively apply, allot to the applicant another brand or, as the case may be, earmark in lieu of the brand or earmark so cancelled and shall register such brand or earmark in the name of the applicant.

**Cancellation of brand or earmark not in use**

**19.(1)** If at any time it appears to the registrar that a registered brand or earmark is not in use, the registrar may, by signed notice given to the registered owner thereof, call upon the registered owner to show cause why the brand or earmark specified in the notice should not be cancelled.

(2) The registrar may in the notice or in a further notice nominate a place, date (being not less than 3 months from the date of the notice) and time at which cause is to be shown.

(3) If cause is not shown to the satisfaction of the registrar within the time specified in the notice, the registrar may cancel the brand or earmark in respect of which the notice was given.

**Cancellation and re-allotment by Minister of certain brands and marks**

**19A.(1)** When a change in the ownership of a holding has occurred the Minister may in the Minister's discretion, upon the application of the current owner of such holding made in conformity with this Act and upon the recommendation of the registrar—

- (a) cancel the allotment and registration of any pig brand, horse and cattle brand, sheep brand or sheep earmark used in respect of such holding prior to such change in ownership and continued to be so used after such change; and
- (b) cause to be forthwith allotted to the current owner of such holding and registered in his or her name such a brand or earmark, where—
  - (i) a transfer of the same by or on behalf of the last registered owner of such brand or earmark in favour of the current owner of such holding can not be produced; and
  - (ii) such a transfer signed as aforesaid can not be obtained; and
  - (iii) the Minister is satisfied that such last registered owner is not lawfully using such brand or mark.

**(1A)** When the Minister exercises the powers conferred upon the Minister by subsection (1) in relation to a horse and cattle brand the Minister shall cause to be cancelled and re-allotted to the current owner of the holding

concerned (if such owner applies therefor in conformity with this Act) any and every cattle earmark and symbol brand registered for use in conjunction with such brand.

### **Cancellation and re-allotment of cattle earmarks**

(2) When a change in the ownership of a holding has occurred and the current owner of such holding is the registered owner of a horse and cattle brand the registrar may, in the registrar's discretion—

- (a) upon the application of such current owner made in conformity with this Act; and
- (b) upon the written authority of the last registered owner of the cattle earmark concerned being furnished to the registrar;

cancel the allotment and registration of any and every cattle earmark registered for use in conjunction with a horse and cattle brand used in respect of such holding prior to such change of ownership and forthwith re-allot the same to such current owner for use in conjunction with his or her horse and cattle brand in respect of such holding and shall register the same in the name of such current owner accordingly.

### **Manner of dealing with cancelled brands and marks**

20.(1) Upon the application of the last registered owner of a brand or earmark the allotment and registration of which has been cancelled and upon the payment of the prescribed fee the registrar, if satisfied that such application is in conformity with this Act, shall, subject to this Act, re-allot such brand or, as the case may be, earmark to the applicant and register the same in the applicant's name unless, in the meantime, such brand or, as the case may be, earmark, has been allotted to another person and registered in the person's name.

(2) Save as is provided in section 19A and in subsection (1), the registrar shall not allot a horse and cattle brand or cattle earmark which is cancelled to any person unless the registrar is satisfied—

- (a) that a period of 5 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.

### **Cancellation of conjoint brands and marks**

**20A.** Whenever the allotment and registration of a horse and cattle brand has been cancelled pursuant to this Act the allotment and registration of every cattle earmark and symbol brand registered for use in conjunction with such brand shall also be cancelled.

### **Inspectors of slaughterhouses to furnish weekly list of brands of cattle slaughtered**

**21.** All inspectors of slaughterhouses shall furnish the inspector of brands for the district in which such slaughterhouses are situated with a weekly list of the brands of the cattle about to be slaughtered, or which have been slaughtered at such slaughterhouses during the preceding week.

### **Stock on which brand has been altered or blotched to be deemed unbranded**

**22.(1)** Any horse or cattle bearing a brand which has been altered, defaced, rendered illegible, or blotched shall be held to be unbranded, and any cattle, or sheep, or goats upon which the ear has been cut or cropped contrary to this Act shall be held to be not earmarked, and any inspector who is of the opinion that any horse or cattle bears a brand which has been altered, defaced, rendered illegible, or blotched, or that the ear upon any cattle or sheep has been cut or cropped contrary to this Act, may seize such horse, cattle or sheep and detain same for the purposes of inquiring into such branding or earmarking or of any prosecution; and if in the case of any prosecution the defendant shall be found guilty of the offence of which the defendant is charged, any such stock so seized and detained for the purposes of such prosecution may be forfeited to Her Majesty by the order of the adjudicating court and thence become the property of Her Majesty and may be disposed of by the Minister in such manner as the Minister thinks fit.

**(1A)** However, the conviction of any person proceeded against upon any such prosecution shall not render the stock the subject matter of the prosecution liable to forfeiture as against the owner thereof if such owner proves to the satisfaction of the court that the owner did not know and had

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no means of knowing—

- (a) that the brand borne by any horse or cattle comprising such stock had been altered, defaced, rendered illegible, or blotched; or
- (b) that the ear of any cattle, or sheep, or goat comprising such stock had been cut or cropped contrary to this Act.

(2) Both the owner and the person in charge thereof at the time of their seizure shall be liable for the payment of all expenses incurred by an inspector in seizing and detaining any stock under this section.

(2A) In the event of the sale price of any such stock (whether sold after their forfeiture to the Crown or sold under subsection (3)) not being sufficient to defray in full such expenses as aforesaid, both the aforesaid persons shall also be liable for the amount of the insufficiency.

(2B) If any person fails to pay any moneys payable by the person hereunder upon demand made by an inspector the amount thereof may be recovered from the person in a summary way under the *Justices Act 1886* or by action as for a debt due to the Crown in a court of competent jurisdiction.

(3) If no prosecution is instituted in relation to any stock seized and detained hereunder or, if upon such prosecution the adjudicating court does not order such stock to be forfeited to the Crown, the inspector may, upon the completion of the inquiry for the purposes of which such stock were seized and detained, or (as the case may be) of the prosecution, publish in some newspaper circulating in the locality where such stock were seized a notice that such stock will be sold to defray the expenses of their seizure and detention.

(3A) Such notice shall specify the place, date, and time of sale, and such date shall be not less than 7 days after the date of publication of the notice.

(3B) The stock concerned shall be sold by public auction upon the date and at the place and time specified in the notice unless such expenses as aforesaid are sooner paid in full.

(3C) All costs incurred by an inspector in carrying out the provisions of subsections (3) to (3B) in relation to any stock shall be and be deemed to be included in and shall form part of the expenses incurred in seizing and detaining such stock.

(4) The sale price of any stock sold under subsection (3B) shall be paid to

the chief executive of the Department of Primary Industries, who, after defraying thereout all expenses incurred by any inspector in seizing and detaining such stock, shall pay the balance (if any) to the owner of such stock.

(5) No person shall have any claim for any loss or damages sustained or alleged to have been sustained by the person, whether directly or indirectly, or, except as hereinafter provided, any other right or remedy whatsoever against the Crown or the Minister or any inspector or any other person whomsoever by reason or in respect of the seizure or detention or sale of any stock under this section.

(6) However, subsection (5) shall not prejudice the right of an owner of stock which, having been seized and detained hereunder, have not been forfeited to the Crown as herein provided, to recover possession thereof upon paying in full all expenses incurred by the inspector concerned in relation to such seizure and detention before such stock have been sold pursuant to subsection (3B).

### **Powers of inspector**

**23.(1)** For the purposes of this Act an inspector may, with such assistants, animals, vehicles and equipment as the inspector considers necessary for the proper discharge of the inspector's duties—

- (a) enter upon and leave as often as the inspector considers necessary any holding;
- (b) search for and inspect any stock, brand, mark, branding instrument or pliers and, in the case of travelling stock, stop such stock and, for the purpose of exercising any of the powers by this paragraph conferred, stop any vehicle or vessel;
- (c) muster, yard, detain, clip and otherwise deal with any stock when the inspector considers it necessary in the proper discharge of the inspector's duties so to do;
- (d) seize and detain any stock in respect of which the inspector suspects on reasonable grounds that the owner or person in charge has committed or is committing an offence against this Act;
- (e) seize and detain anything in respect of which the inspector

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suspects on reasonable grounds that an offence against this Act has been committed or is being committed by any person, whether known to the inspector or not;

- (f) use such force as is reasonably necessary to exercise any of the aforesaid powers;
- (g) require the owner or person in charge or apparently in charge of any holding or stock or any person found in or on any holding or any person who, within the preceding 12 months, has been employed in or on any holding to answer such questions as the inspector puts to the person with respect to matters within the purview of this Act to ascertain whether any provision of this Act has been or is being contravened or has not been or is not being complied with and require any such person to sign a declaration as to the truth of the person's answers;
- (h) with the authority in writing of the Minister, require the owner, occupier or person apparently in charge of a holding to cause stock on such holding to be mustered and held until the inspector approves to the contrary.

**(2)** A person who—

- (a) hinders or obstructs an inspector or any of the inspector's assistants in the execution of his or her duty under this Act or attempts so to do; or
- (b) upon being required by an inspector in that behalf, fails to produce a branding instrument or pliers for the purpose of inspection; or
- (c) does not permit any stock, branding instrument or pliers to be inspected by an inspector; or
- (d) fails to comply with a requisition of an inspector lawfully made upon the person pursuant to this Act;

commits an offence against this Act.

**(3)** No provision of this section shall be construed—

- (a) to oblige any person to answer any question or make any statement which answer or statement would or would tend to incriminate the person; or
- (b) to render any person liable to a penalty for failing to make such an

answer or statement.

### **Penalties for breaches as to branding or marking of stock**

**24.(1)** Every person who is guilty of any of the following acts relating to the branding or marking of any stock shall be liable to a penalty not exceeding \$400, namely—

(a)—

- (i) using or attempting to use or knowingly permitting to be used; or
- (ii) without lawful excuse (the proof of which shall be upon the person) having in possession or at the person's 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 the person is entitled to use;

- (b) branding or marking, or directing, aiding, or assisting to brand or mark without lawful excuse (the proof whereof shall lie upon the person), any stock on any portion thereof with a brand or earmark of any kind whatever which is not registered in the person's name or the name of any person whom the person is directing, aiding or assisting;
- (c) marking any cattle, sheep, or goat by removing more than  $\frac{1}{3}$  of the ear;
- (d) marking any cattle, sheep, or goat by means of any instrument other than pliers;
- (e) marking with a spay mark any cattle other than a cow or heifer which has been spayed;
- (f) making or cutting any mark other than a mark which the person is authorised or permitted by this Act to make or cut;
- (g) failing at the time when the person spays a cow or heifer to mark such cow or heifer with a spay mark;
- (h) having in the person's possession or suffering to be on or in a holding of which the person is the owner or the person apparently

in charge any branding instrument bearing a letter, numeral, sign, character, symbol, or mark which does not comply with the provisions of this Act applicable thereto or, as the case may require, a determination of the Minister made in relation thereto;

- (i) in any other way offending against any of the provisions of this Act connected with the branding or marking of stock.

(2) However, a person is not liable under this section for anything done or omitted to be done by the person—

- (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.

### **Prohibition on sale of unbranded cattle**

**24A.(1)** A person shall not sell any cattle of a live weight in excess of 100 kg unless those cattle are branded.

Maximum penalty—\$400 or imprisonment for 6 months.

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

- (a) they are branded with a horse and cattle brand; or
- (b) they are branded with a brand registered pursuant to the law of any other State or a Territory and recognised therein as evidence of ownership of those cattle; or
- (c) they are branded with a brand impressed or otherwise applied in a State or Territory, the law whereof does not require the registration of such a brand, and accepted therein as evidence of ownership of those cattle.

(3) This section applies subject to section 24B.

### **Power of Minister to exempt**

**24B.(1)** The Minister may from time to time by writing under the Minister's hand—

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- (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 the Minister specifies in the writing.

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

(2A) 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 the person subject to which an exemption is given or made under this section.

Maximum penalty—\$400 or imprisonment for 6 months.

**Prohibition on sale of unbranded pigs**

**24C.(1)** Subject to subsection (3), a person shall not sell or offer for sale any pig of a live weight in excess of 30 kg 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; or
- (b) it is branded with a brand registered pursuant to the law of any other State or a Territory and recognised 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, 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 2 pigs (including the pig sold or offered for sale); or
  - (b) sells or offers for sale a pig purchased within a period of 7 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.

### **Evidentiary provisions**

**25.(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 1 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:

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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 the person's 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.

**Fees**

**26.(1)** Fees at the prescribed rate shall be payable upon the registration or transfer of any brand or earmark of any kind whatever under this Act.

(2) In every case the prescribed fee shall accompany the application for the registration or transfer but if the registration or transfer is not effected the whole or part of such fee may be refunded by the registrar.

**Costs of administering Act**

**27.(1)** The costs, charges, and expenses of administering this Act shall be paid out of the Consolidated Fund which is hereby to the necessary extent appropriated accordingly.

(2) All fees paid and penalties recovered under this Act shall be paid into the Consolidated Fund.

**Not to affect mortgages on stock**

**28.** Nothing herein contained shall affect any mortgage or other security under the *Mercantile Act 1867* or any Act relating to the mortgage of stock or holdings.

**Regulations**

**29.(1)** The Governor in Council may from time to time make regulations providing for all or any purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.

**(2)** Without limiting the generality of these provisions, the Governor in Council may make regulations prescribing—

- (a) the shape or pattern of the letters, signs, characters, numerals, symbols, and marks to be used for brands and earmarks of any kind whatever, under this Act, and the arrangement and position thereof;
- (b) the shape, size, or pattern of branding instruments or pliers used under this Act;
- (c) the conditions under which brands and earmarks of any kind whatever may be transferred, surrendered, cancelled, or re-allotted and authorising such cancellation upon conviction of certain offences to be specified in such regulations;
- (d) the branding, on a prescribed portion, of stock that have been tested for a prescribed disease with a brand of such design as is prescribed for that disease;
- (e) the branding of horses or cattle with a departmental distinctive brand set apart by the registrar for a specific purpose, and, where deemed necessary, making such branding by the owners compulsory;
- (f) grades for hides of horses or cattle or skins of sheep or goats, and the matters and things to be considered in determining the grade of any such hide or skin;
- (g) the fees payable under this Act;

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- (h) the forms to be used under this Act;
- (i) the giving of notice by owners of intention to muster, shear, brand, mark, or travel stock;
- (j) any other matters or things necessary for carrying out this Act.

(3) All such regulations made or purporting to be made under this Act shall be published in the Gazette, and thereupon shall be of the same effect as if they were contained in this Act and shall be judicially noticed and shall not be questioned in any proceedings whatever, and the publication in the Gazette of any such regulation shall be conclusive evidence of the matters contained therein and of the power and authority to make same.

**Notice, how given**

30. Where by any of the provisions of this Act it is necessary 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 through the Post Office or may be delivered to the person personally or left at the person's usual or last-known residence.

**Recovery of penalties**

31.(1) A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act.

(1A) An offence against this Act may be prosecuted in a summary way under the *Justices Act 1886* upon the complaint of an inspector.

(1B) Such a proceeding may be instituted within the time limited therefor by those Acts or within 6 months after the offence in question comes to the knowledge of the complainant whichever period is the later to expire.

(1C) Unless some other penalty is specifically prescribed by this Act a person convicted of an offence against this Act is liable to a penalty of \$200.

**Recovery of fees**

(2) Unless some other method of recovery is specifically prescribed by this Act any fee payable under this Act shall be recovered by way of summary proceeding under the *Justices Act 1886* upon complaint by an inspector or by way of action as for a debt due to the Crown in a court of

competent jurisdiction.

**Disposal of branding instruments etc.**

(3) A court which hears a charge of an offence against any provision of this Act may order that anything (other than stock) seized by or on behalf of an inspector in the course of an investigation into such offence be forfeited to the Crown.

(4) Anything ordered to be forfeited to the Crown under subsection (3) or any other thing (other than stock) which, either before or after the date of commencement of the *Brands Acts Amendment Act 1965*—

- (a) has been seized by or on behalf of an inspector and which does not conform with the provisions of this Act or with a determination made under this Act; or
- (b) has been surrendered to an inspector, the registrar, or the chief executive of the Department of Primary Industries;

may be disposed of in such manner as that chief executive determines.

**Protection from liability**

32. An inspector and the Chief Inspector of Stock within the meaning of the *Stock Act 1915* shall not incur any liability on account of anything reasonably done by the inspector or Chief Inspector for the purpose of carrying this Act into effect.

## ENDNOTES

### 1 Index to Endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 26 July 1994. Future amendments of the Brands Act 1915 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 List of legislation

#### **Brands Act 1915 6 Geo 5 No. 9**

date of assent 15 November 1915  
commenced 1 January 1916 (see s 1)  
as amended by—

#### **Brands Act Amendment Act 1916 7 Geo 5 No. 3**

date of assent 15 November 1915  
commenced 1 January 1916 (see s 1)

#### **Diseases in Stock and Brands Acts Amendment Act 1931 22 Geo 5 No. 34**

date of assent 16 December 1931  
commenced on date of assent

#### **Brands Acts Amendment Act 1932 23 Geo 5 No. 14**

date of assent 11 November 1932  
commenced on date of assent

**Brands Acts Amendment Act 1937 1 Geo 6 No. 17**

date of assent 18 November 1937  
commenced on date of assent

**Brands Acts Amendment Act 1940 4 Geo 6 No. 10**

date of assent 31 October 1940  
commenced on date of assent

**Brands Acts and Diseases in Stock Acts Amendment Act 1941 5 Geo 6 No. 18**

date of assent 20 November 1941  
commenced on date of assent

**Brands Acts Amendment Act 1945 9 Geo 6 No. 31**

date of assent 6 December 1945  
commenced on date of assent

**Brands Acts Amendment Act 1965 No. 39**

date of assent 29 October 1965  
commenced on date of assent

**Metric Conversion Act 1972 No. 31 Pt 2 Sch 1**

date of assent 21 December 1972  
commenced 27 July 1974 (proc pubd Gaz 27 July 1974 p 1834)

**Criminal Code and the Justices Act and Another Act (Stock Offences) Amendment Act 1973 No. 88 Pt 4**

date of assent 20 December 1973  
commenced 1 April 1974 (proc pubd Gaz 16 February 1974 p 687)

**Brands Act and Another Act Amendment Act 1974 No. 79**

date of assent 1 November 1974  
commenced on date of assent

**Brands Act Amendment Act 1975 No. 46**

date of assent 9 October 1975  
commenced on date of assent

**Stock Act and Another Act Amendment Act 1978 No. 64 Pt 3**

date of assent 30 October 1978  
commenced 1 July 1979 (see s 2(2))

**Brands Act Amendment Act 1979 No. 64**

date of assent 18 December 1979  
s 13 commenced 1 January 1981 (proc pubd Gaz 20 December 1980 p 1606)  
remaining provisions commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 1989 No. 103 s 3 Sch**

date of assent 25 October 1989  
commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 1994 No. 15 s 3 Sch 1**

date of assent 10 May 1994  
commenced on date of assent

## 4 List of annotations

### Key to abbreviations in list of annotations

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
R1	=	Reprint No. 1
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

### Repeal of certain enactments. Schedule

s 2 amd R1 (see RA s 40)

### Interpretation

s 3 def “**cow**” ins 1965 No. 39 s 2(a)  
 def “**distinctive brand**” amd 1975 No. 46 s 2  
 def “**distinctive mark**” amd 1932 23 Geo 5 No. 14 s 2(a); 1937 1 Geo 6 No. 17 s 2(a)  
 def “**heifer**” ins 1965 No. 39 s 2(b)  
 def “**holding**” amd 1940 4 Geo 6 No. 10 s 2(a)  
 def “**local authority**” ins 1965 No. 39 s 2(c)  
     om R1 (see RA s 39)  
 def “**Minister**” sub 1965 No. 39 s 2(d)  
     om R1 (see RA s 39)  
 def “**near side**” ins 1932 23 Geo 5 No. 14 s 2(b)  
 def “**off side**” ins 1932 23 Geo 5 No. 14 s 2(b)  
 def “**owner**” amd 1932 23 Geo 5 No. 14 s 2(c); 1965 No. 39 s 2(e)  
 def “**pig**” ins 1979 No. 64 s 3(a)  
 def “**pig brand**” ins 1979 No. 64 s 3(a)  
 def “**pig brands directory**” ins 1979 No. 64 s 3(a)  
 def “**pliers**” amd 1932 23 Geo 5 No. 14 s 2(d)  
 def “**Prescribed**” om 1979 No. 64 s 3(b)  
 def “**register**” amd 1965 No. 39 s 2(f)  
 def “**Regulations**” om 1979 No. 64 s 3(c)  
 def “**requisition**” ins 1979 No. 64 s 3(c)  
 def “**saleyard**” ins 1940 4 Geo 6 No. 10 s 2(b)  
 def “**sell**” ins 1979 No. 64 s 3(d)

def “**sheep brand**” amd 1932 23 Geo 5 No. 14 s 2(e)  
 def “**sheep earmark**” amd 1937 1 Geo 6 No. 17 s 2(b)  
 def “**spray mark**” ins 1941 5 Geo 6 No. 18 s 4  
     sub 1965 No. 39 s 2(g)  
     amd 1972 No. 31 Pt 2 Sch 1; 1979 No. 64 s 3(e)  
 def “**stock**” amd 1937 1 Geo 6 No. 17 s 2(c); 1979 No. 64 s 3(f)  
 def “**This Act**” om 1965 No. 39 s 2(h)  
 def “**travelling sheep**” ins 1965 No. 39 s 2(h)

**Officers and districts**

s 4           amd 1940 4 Geo 6 No. 10 s 3

**Registration of horse and cattle brands and cattle earmarks**

s 6           amd 1916 7 Geo 5 No. 3 s 2; 1932 23 Geo 5 No. 14 s 3; 1937 1 Geo 6  
               No. 17 s 3; 1941 5 Geo 6 No. 18 s 5; 1945 9 Geo 6 No. 31 s 2; 1965  
               No. 39 s 3; 1972 No. 31 Pt 2 Sch 1; 1974 No. 79 s 2; 1975 No. 46 s 3;  
               1979 No. 64 s 4; 1994 No. 15 s 3 Sch 1

**Spray mark not to be used as registered cattle earmark**

s 6A          ins 1941 5 Geo 6 No. 18 s 6  
               amd 1972 No. 31 Pt 2 Sch 1  
               om 1974 No. 79 s 3

**Order of branding horses, camels and cattle**

s 7           amd 1940 4 Geo 6 No. 10 s 4  
               sub 1965 No. 39 s 4  
               amd 1972 No. 31 Pt 2 Sch 1; 1974 No. 79 s 4; 1975 No. 46 s 4

**Manner of imprinting horse and cattle brands**

s 7A          ins 1965 No. 39 s 4  
               amd 1972 No. 31 Pt 2 Sch 1

**Age numerals and stud and herd book references**

s 8           amd 1932 23 Geo 5 No. 14 s 4  
               sub 1965 No. 39 s 5  
               amd 1972 No. 31 Pt 2 Sch 1; 1979 No. 64 s 5; 1989 No. 103 s 3 Sch

**Distinctive brands**

s 9           amd 1932 23 Geo 5 No. 14 s 5  
               sub 1965 No. 39 s 6  
               amd 1974 No. 79 s 5; 1975 No. 46 s 5

**Special brands**

s 9A          ins 1965 No. 39 s 7

**Registration of sheep brands and marks**

s 10          amd 1932 23 Geo 5 No. 14 s 6; amd 1940 4 Geo 6 No. 10 s 5; 1965 No. 39  
               s 8; 1974 No. 79 s 6; 1975 No. 46 s 6; 1979 No. 64 s 6

**Distinctive marks may be used**

s 11          amd 1932 23 Geo 5 No. 14 s 7; 1937 1 Geo 6 No. 17 s 4; 1940 4 Geo 6 No.  
               10 s 6

**Registration of pig brands**

s 11A ins 1979 No. 64 s 7

**Distinguishing brand to be used by each public pound**

s 14 amd 1965 No. 39 s 9; 1974 No. 79 s 7

**Special brands etc. to public instrumentalities**

s 14A ins 1965 No. 39 s 10

**Special brands to the Commissioner of the Police Service**

s 14B ins 1974 No. 79 s 8

**Duty as to Brands and Earmarks Directories**

s 15 sub 1974 No. 79 s 9; 1979 No. 64 s 8

**Transfers**

s 16 amd 1932 23 Geo 5 No. 14 s 8; 1979 No. 64 s 9

**Power of refusal of Minister**

s 17A ins 1932 23 Geo 5 No. 14 s 9

amd 1965 No. 39 s 11

**Returns of registered brands and earmarks**

s 18 sub 1965 No. 39 s 12

**Cancellation of brand or mark for similarity**

s 18A ins 1916 7 Geo 5 No. 3 s 3

amd 1932 23 Geo 5 No. 14 s 10

sub 1965 No. 39 s 13

**Cancellation of brand or earmark not in use**

s 19 sub 1974 No. 79 s 10

**Cancellation and re-allotment by Minister of certain brands and marks**

s 19A ins 1932 23 Geo 5 No. 14 s 11

sub 1965 No. 39 s 14

amd 1979 No. 64 s 10

**Manner of dealing with cancelled brands and marks**

s 20 amd 1932 23 Geo 5 No. 14 s 12

sub 1965 No. 39 s 15

amd 1974 No. 79 s 11; 1979 No. 64 s 11

**Cancellation of conjoint brands and marks**

s 20A ins 1965 No. 39 s 16

**Stock on which brand has been altered or blotched to be deemed unbranded**

s 22 amd 1932 23 Geo 5 No. 14 s 13

sub 1937 1 Geo 6 No. 17 s 5

amd 1940 4 Geo 6 No. 10 s 7; 1965 No. 39 s 17

**Powers of inspector**

s 23 sub 1932 23 Geo 5 No. 14 s 14; 1965 No. 39 s 18

**Penalties for breaches as to branding or marking of stock**

s 24 amd 1932 23 Geo 5 No. 14 s 15; amd 1937 1 Geo 6 No. 17 s 6; 1941

5 Geo 6 No. 18 s 7; 1965 No. 39 s 19; 1974 No. 79 s 12; 1979 No. 64 s 12

**Prohibition on sale of unbranded cattle**

**s 24A** ins 1973 No. 88 s 17  
sub 1974 No. 79 s 13

**Power of Minister to exempt**

**s 24B** ins 1973 No. 88 s 18  
amd 1974 No. 79 s 14

**Prohibition on sale of unbranded pigs**

**s 24C** ins 1979 No. 64 s 13

**Evidentiary provisions**

**s 25** amd 1932 23 Geo 5 No. 14 s 16; amd 1937 1 Geo 6 No. 17 s 7; 1941  
5 Geo 6 No. 18 s 8  
sub 1965 No. 39 s 20  
amd 1974 No. 79 s 15  
sub 1979 No. 64 s 14

**Fees**

**s 26** amd 1931 22 Geo 5 No. 34 s 3  
sub 1941 5 Geo 6 No. 18 s 9  
amd 1979 No. 64 s 15

**Costs of administering Act**

**s 27** sub 1941 5 Geo 6 No. 18 s 10  
amd 1965 No. 39 s 21; 1978 No. 64 s 40

**Regulations**

**s 29** amd 1932 23 Geo 5 No. 14 s 17; amd 1937 1 Geo 6 No. 17 s 8; 1974  
No. 79 s 16; 1975 No. 46 s 7; R1 (see RA s 39)

**Recovery of penalties**

**s 31** sub 1965 No. 39 s 22  
amd 1974 No. 79 s 17; 1979 No. 64 s 16

**Protection from liability**

**s 32** ins 1965 No. 39 s 23  
amd 1979 No. 64 s 17

**THE SCHEDULE**

om R1 (see RA s 40)

## 5 Table of changed names and titles

TABLE OF CHANGED NAMES AND TITLES  
under the Reprints Act 1992 ss 23, 23A and 29

Old	New	Reference provision
Commissioner (of Police)	Commissioner (of the Police Service)	Police Service Administration Act 1990 s 11.1(1)(b)
Consolidated Revenue	Consolidated Fund	Financial Administration and Audit Act 1977 s 112
His Majesty	Her Majesty	Acts Interpretation Act 1954 s 52(3)(a)
local authority	local government	Local Government Act 1993 s 755(1)(a)
member (of the police force)	police officer	Police Service Administration Act 1990 s 11.1(1)(c) (see also s 1.4)
Under Secretary	chief executive	Reprints Act 1992 s 29, example 27

## 6 Table of obsolete and redundant provisions

TABLE OF OBSOLETE AND REDUNDANT PROVISIONS  
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
def “local authority”	Acts Interpretation Act 1954 s 36, def “local government” and Local Government Act 1993 s 755(1)(a) (see also Reprints Act 1992 s 39, example 2)
def “Minister”	Acts Interpretation Act 1954 s 36, def “Minister” and s 33(1) and (2) (see also Reprints Act 1992 s 39, example 2)
other provisions about notification, gazettal, tabling or disallowance of no effect	Statutory Instruments Act 1992 s 46

references to a Territory

Acts Interpretation Act 1954  
s 36, def “Territory”

## 7 Table of renumbered provisions

### TABLE OF RENUMBERED PROVISIONS under the Reprints Act 1992 s 43

Original	Renumbered as
3, def “distinctive brand”, 1st unnum para	def “distinctive brand”, (a)
3, def “distinctive brand”, 2nd unnum para	def “distinctive brand”, (b)
4(1), 2nd sentence	4(1A)
6(1), proviso	6(1A)
6(2), 2nd sentence	6(2A)
6(3), 2nd sentence	6(3A)
6(3), 3rd sentence	6(3B)
6(3), 4th sentence	6(3C)
6(3), 5th sentence	6(3D)
6(3), 6th sentence	6(3E)
6(4), 2nd sentence	6(4A)
6(4), 3rd sentence	6(4B)
6(5), 2nd sentence	6(6)
6(5), 3rd sentence	6(6A)
6(5), 3rd sentence, proviso	6(6B)
6(5), 4th sentence	6(6C)
6(5), 4th sentence, proviso	6(6D)
6(6), 5th sentence	6(6E)
6(6), 6th sentence	6(6F)
6(6), 6th sentence, proviso	6(6G)
7(2)(a)	7(2)
7(2)(a), 1st unnum para	7(2)(a)
7(2)(a), 2nd unnum para	7(2)(b)
7(2)(a), 3rd unnum para	7(2)(c)
7(2)(a), 4th unnum para	7(2)(d)
7(2)(a), 5th unnum para	7(2)(e)
7(2)(a), 6th unnum para	7(2)(f)
7(2)(b)	7(3)
7(2)(b), 1st unnum para	7(3)(a)
7(2)(b), 2nd unnum para	7(3)(b)
7(2)(b), 3rd unnum para	7(3)(c)
7(2)(b), 4th unnum para	7(3)(d)
8(2), proviso	8(2A)

9(1), 2nd sentence	9(1A)
9(1), 3rd sentence	9(1B)
9(1), 4th sentence	9(1C)
9A(1), 2nd sentence	9A(1A)
9A(1), 3rd sentence	9A(1B)
10(1), proviso	10(1A)
10(2), 2nd sentence	10(2A)
10(3), 2nd sentence	10(3A)
10(3), 3rd sentence	10(3B)
10(3), 3rd sentence, proviso	10(3C)
11, 1st sentence	11(1)
11, 2nd sentence	11(2)
11A(2), 2nd sentence	11A(2A)
11A(2), 3rd sentence	11A(2B)
11A(3), 2nd sentence	11A(3A)
11A(4), 2nd sentence	11A(4A)
11A(5), 2nd sentence	11A(5A)
14, 1st sentence	14(1)
14, 2nd sentence	14(2)
14, 3rd sentence	14(3)
14A, 1st sentence	14A(1)
14A, 2nd sentence	14A(2)
14A, 3rd sentence	14A(3)
14B(1), 2nd sentence	14B(1A)
16(1), 2nd sentence	16(1A)
16(1), 3rd sentence	16(1B)
16(1), 4th sentence	16(1C)
16(1), 4th sentence, proviso	16(1D)
16(2A), proviso	16(2B)
17, 1st sentence	17(1)
17, 2nd sentence	17(2)
18(1), 2nd sentence	18(1A)
18(2), 2nd sentence	18(3)
18(2), 3rd sentence	18(4)
18A(1), 2nd sentence	18A(1A)
19, 1st sentence	19(1)
19, 2nd sentence	19(2)
19, 3rd sentence	19(3)
19A(1), 2nd sentence	19A(1A)
22(1), proviso	22(1A)
22(2), 2nd sentence	22(2A)
22(2), 3rd sentence	22(2B)
22(3), 2nd sentence	22(3A)
22(3), 3rd sentence	22(3B)
22(3), 4th sentence	22(3C)
22(5), proviso	22(6)

24, 1st sentence	24(1)
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24, 1st sentence, (i)(a)	24(1)(a)(i)
24, 1st sentence, (i)(b)	24((1)(a)(ii)
24, 1st sentence, (ii)	24(1)(b)
24, 1st sentence, (iii)	24(1)(c)
24, 1st sentence, (iv)	24(1)(d)
24, 1st sentence, (v)	24(1)(e)
24, 1st sentence, (vi)	24(1)(f)
24, 1st sentence, (vii)	24(1)(g)
24, 1st sentence, (viii)	24(1)(h)
24, 1st sentence, (ix)	24(1)(i)
24, 1st sentence, proviso	24(2)
24B(2), 2nd sentence	24B(2A)
26, 1st sentence	26(1)
26, 2nd sentence	26(2)
27, 1st sentence	27(1)
27, 2nd sentence	27(2)
29, 1st sentence	29(1)
29, 2nd sentence	29(2)
29, 2nd sentence, (1)	29(2)(a)
29, 2nd sentence, (2)	29(2)(b)
29, 2nd sentence, (3)	29(2)(c)
29, 2nd sentence, (3A)	29(2)(d)
29, 2nd sentence, (4)	29(2)(e)
29, 2nd sentence, (4A)	29(2)(f)
29, 2nd sentence, (5)	29(2)(g)
29, 2nd sentence, (6)	29(2)(h)
29, 2nd sentence, (6A)	29(2)(i)
29, 2nd sentence, (7)	29(2)(j)
29, 3rd sentence	29(3)
31(1), 2nd sentence	31(1A)
31(1), 3rd sentence	31(1B)
31(1), 4th sentence	31(1C)
31(3), 2nd sentence	31(4)

## **8 Table of comparative legislation**

<b>s 3</b>	35 Vic No. 4 s 1; 62 Vic No. 21 s 4
<b>s 4</b>	35 Vic No. 4 s 10
<b>s 6</b>	35 Vic No. 4 ss 4, 12, 15; 62 Vic No. 21 ss 12–13, 17
<b>s 7</b>	5 Geo 5 No. 12 s 4
<b>s 8</b>	38 Vic No. 9 s 2
<b>s 9</b>	35 Vic No. 4 s 7; 5 Geo 5 No. 12 s 3
<b>s 10</b>	54 Vic No. 21 ss 8, 10

<b>s 11</b>	54 Vic No. 21 s 9
<b>s 12</b>	35 Vic No. 4 s 13
<b>s 13</b>	35 Vic No. 4 s 11
<b>s 14</b>	35 Vic No. 4 s 24
<b>s 15</b>	35 Vic No. 4 s 22
<b>s 16</b>	35 Vic No. 4 ss 16–17; 54 Vic No. 21 s 11
<b>s 17</b>	62 Vic No. 21 s 18
<b>s 19</b>	62 Vic No. 21 s 19
<b>s 20</b>	62 Vic No. 21 s 20
<b>s 21</b>	35 Vic No. 4 s 25
<b>s 22</b>	35 Vic No. 4 s 29
<b>s 23</b>	35 Vic No. 4 s 3
<b>s 24</b>	35 Vic No. 4 s 9, 14; 54 Vic No. 21 s 15
<b>s 25</b>	35 Vic No. 4 ss 35–36; 54 Vic No. 21 s 12
<b>s 26</b>	35 Vic No. 4 s 31
<b>s 27</b>	35 Vic No. 4 s 33
<b>s 28</b>	35 Vic No. 4 s 26
<b>s 29</b>	62 Vic No. 21 s 22
<b>s 30</b>	35 Vic No. 4 s 34
<b>s 31</b>	35 Vic No. 4 s 37