

CHAPTER 148

BRANDS

ARRANGEMENT OF SECTIONS

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Acts Nos. 14 of 1934 and 46 of 1988

AN ACT TO PROVIDE FOR THE BRANDING OF HORSES AND CATTLE AND
FOR THE REGISTRATION OF BRANDS

[27th August, 1934]

1. This Act may be cited as The Brands Act. Short title.
2. In this Act unless the context otherwise requires— Interpretation.

"brand" means the permanent impression of any letter, sign or character branded upon any stock under the provisions of this Act;

"cattle" means any bull, cow, ox, heifer, steer or calf;

"horse" means any horse, mare, gelding, colt, filly, ass or mule;

“owner” means the owner jointly or in severalty of any brand registered under this Act or the agent of such owner;

“register” means the register book kept in pursuance of this Act containing a list of the brands of horses or cattle registered hereunder;

“registrar” means the registrar of brands or any deputy registrar of brands appointed hereunder;

“stock” means any horse or head of cattle.

Appointment
of registrar
etc.

3. The Minister of Agriculture, Forests and Fisheries with the consent of Cabinet shall appoint a Registrar of Brands (hereinafter called the registrar) and such deputy registrars or other officers as may be necessary for giving effect to this Act. *(Amended by Act 46 of 1988.)*

Power of
registrar to
enter on
plantations
or farms.

4. The registrar or any person duly authorised by the Minister of Agriculture, Forests and Fisheries may enter upon any part of any plantation or farm in any part of the Kingdom to inspect any stock, brand or pliers or other instruments used for branding and to take possession of and impound any stock in respect of which the owner has committed or is committing any breach of this Act and to seize any pliers or instruments other than those authorised by this Act. Any person hindering or impeding or attempting to hinder or impede the registrar or other authorised person in the execution of his duty and any person refusing to produce any pliers or instruments or to permit the inspection of any stock or pliers or instruments shall on conviction before a magistrate be liable to a fine not exceeding \$10 and in default of payment shall be liable to imprisonment for a term not exceeding 2 months. *(Amended by Act 46 of 1988.)*

Description
of brands to
be used.

5. Every brand registered under this Act shall consist of a letter or a numeral the size, shape and pattern of which shall be determined by the Minister of Agriculture, Forests and Fisheries. *(Amended by Act 46 of 1988.)*

One brand
for each
owner.

6. One brand only shall be allowed to each owner unless he is the proprietor of more plantations or farms than one when he may be allotted one brand for each of such plantations or farms.

Same brand
for horses
and cattle.

7. Every owner possessed of both horses and cattle shall use the same brand for horses as he uses for cattle.

Register to
be kept.

8. The registrar shall keep a register in the form of Part I of Schedule A hereto of all brands allotted by virtue of this Act.

9. (1) Any person requiring a brand shall deliver or transmit to the registrar an application in the form of Schedule B hereto accompanied by the fees as provided in Schedule C hereto for the registration of a brand.

Mode of obtaining brand.

(2) If the registrar is satisfied that such application is in conformity with the provisions of this Act he shall allot to such applicant in the order in which his application is received the first unallotted brand standing in the register and shall register the said brand to such applicant accordingly in the form of Part I of Schedule A hereto and the registrar shall also mark upon the said application the brand allotted to such applicant.

(3) If on the coming into operation of this Act an owner is already in possession of a brand it shall be lawful for such owner to make application for the registration of this brand and the registrar if satisfied that the same brand has not already been registered by or on behalf of any other owner shall upon payment of the registration fee set out in Schedule C hereto register such brand accordingly to such owner in the form of Part I of Schedule A hereto as a brand allotted to him under this Act.

Owner already having brand.

10. Upon the registration of any brand as aforesaid the registrar shall deliver or transmit to the applicant to whom such brand is allotted a certificate of the registration thereof in the form of Part II of Schedule A hereto.

Certificate of registration.

11. (1) Any person who shall brand or direct, aid or assist in branding any stock with a brand which shall not have been registered in accordance with this Act shall on conviction for every such offence forfeit and pay any sum not exceeding \$40.

Penalty for using unregistered brand.

(2) Any person who shall brand any stock other than his own with his registered brand shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100 and in default of payment to imprisonment for a period not exceeding 2 years.

Penalty for using brand on stock not one's own.

12. The registrar shall at the end of every quarter or as soon thereafter as possible transmit to the Government Printer for publication in the Government Gazette a statement in the form of Schedule D hereto of all brands registered under this Act up to the last day of such quarter and the names and addresses of their respective owners.

Quarterly statements of brands to be published.

13. Any person wishing to transfer the right to any brand registered under the provisions of this Act and the person to whom such right is intended to be transferred shall make and sign in the presence of a magistrate a memorandum in the form set forth in Schedule E hereto and shall transmit the same to the registrar of brands together with

Transfer of brand.

the fees chargeable on such transfer as set forth in Schedule C to this Act.

And 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 such transferee shall thereafter be deemed to be the person having the exclusive right to use such brand as aforesaid:

Provided that in the event of any proprietor on selling a plantation or farm not selling the whole of the stock of his brand the transferee shall be obliged to re-brand the whole of the stock purchased with such plantation or farm from the transferor.

Registrar to keep transfer book.

14. The registrar shall keep a book in which all such transfers shall be recorded and he shall notify the same as they occur in the Government Gazette immediately after the quarterly statements of brands registered hereunder.

Rules of branding.

15. (1) All brands on stock shall be in the form of earmarks and shall be made with pliers or with such other instruments as may be prescribed and in such order as may hereafter be prescribed by regulations.

(2) The breeder or person making the first brand may make such brand on any ear in any of the positions prescribed by regulation but all subsequent brands shall follow in the consecutive order which the regulations may prescribe.

And all the stock shall be deemed to be branded with the registered brand which shall appear to be the last brand upon such stock according to the order prescribed and any person failing to comply with or offending against any of the provisions of this section shall on conviction for every offence forfeit and pay any sum not exceeding \$40.

Fees chargeable under this Act.

16. The fees set out in Schedule C hereto shall be the fees chargeable under this Act for the registration and transfers of brands and such fees shall be paid to the Treasurer for the revenue of the Kingdom.

Brand Prima Facie Evidence of ownership.

17. For the purpose of any prosecution or action under this Act any registered brand upon any stock shall be prima facie evidence of the ownership of such brand and of the stock on which such brand is imprinted.

Evidence in cattle and horse maiming and stealing.

18. On the trial of any person charged with horse or cattle stealing or with maiming or killing any horse or cattle it shall be competent for the Minister for Police or other officer prosecuting on behalf of the Crown to give evidence that the brands appearing upon the

animals alleged to have been stolen or maimed or killed are the brands of the person named in the information as the owner or of some person through whom such alleged owner claims and such evidence may, if in the opinion of the jury the other circumstances proved at the trial warrant such course, be taken into their consideration in determining the question of ownership.

19. All prosecutions under this Act shall be brought in the Magistrate's Court of the district where the offence was committed on the complaint of the registrar, the Police or other person duly authorised by the Minister of Agriculture, Forests and Fisheries. (Amended by Act 46 of 1988.)

Prosecutions.

20. The Minister of Agriculture, Forests and Fisheries with the consent of Privy Council may make such regulations as may be necessary for the carrying out of any of the provisions of this Act. (Amended by Act 46 of 1988.)

Regulations.

SCHEDULE A

PART I

(Section 8)

BRANDS REGISTER

No.....Date.....
Brand allotted
Applicant's name and address.....
Plantation or farm where brand is to be used.....
Date of publication in Gazette.....
Registrar

PART II

(SECTION 10)

BRANDS ACT

Certificate of Registration

Date.....
This is to certify that the brand set out in the margin hereof was this day duly registered as the brand of..... in terms of the Brands Act.
Registrar

SCHEDULE B

(SECTION 9)

BRANDS ACT

Application for Brand

Date

To the Registrar of Brands.

Sir,

I enclose herewith the authorised fee of.....
and request that you will allot and register a brand for me for the plantation
(or farm) mentioned in the Schedule below.

Schedule above referred to

Name of Applicant	Plantation or farm where brand is to be used	No. of Horses	No. of Cattle

I declare that the foregoing particulars are true to the best of my knowledge
and belief.

..... Signature of Applicant.

SCHEDULE C

(Sections 9, 13 and 16)

For every registration of a brand.....	\$ 1
For every transfer of a brand.....	1

SCHEDULE D

(Section 12)

LIST FOR GAZETTE

Brand Registered	Name	Date of Registration	Plantation or farm where brand is to be used

The foregoing is the list of brands registered under the Brands Act
during the quarter ending19.....

Nuku'alofa,..... Registrar of Brands.
Date.

SCHEDULE E

(Section 13)

MEMORANDUM OF TRANSFER

To the Registrar of Brands.....

Ibeing the registered proprietor of the brand mentioned in the margin hereof having transferred the same todo hereby request that you will make the necessary transfer to of such brand in your register and..... enclose herewith the sum of \$....., being the fee authorized for transfer of brand.

Signature of Owner

Signature of Transferee

Witness to.....

Signature of Parties