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BRAND ACT

Chapter B-6

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “brand” means a brand as defined by the regulations;
- (b) “cattle” means a bull, cow, ox, heifer, steer or calf;
- (c) “character” means a character as defined by the regulations;
- (d) “electronic identification” means electronic identification as defined by the regulations;
- (e) “honorary brand” means an honorary brand as defined by the regulations;
- (f) “horse” means a horse, mare, gelding, colt or filly, ass or mule;
- (g) “Minister” means the Minister determined under section 16 of the Government Organization Act as the Minister responsible for this Act;
- (h) “owner” means a person recorded under this Act as the owner of a brand or vent, and the authorized agent or transferee of the owner;
- (i) “prescribed” means prescribed or otherwise provided for by the regulations;
- (j) “recorded” means entered in the record kept under this Act;
- (k) “Recorder” means the person appointed as the Recorder of Brands by the Minister pursuant to section 5(1);
- (l) “sheep” means a ram, ewe, wether or lamb;
- (m) “stock” means any horse, cattle, sheep or buffalo or any domestic cervid as defined in the Livestock Industry Diversification Act;
- (n) “vent” means any mark placed on an animal by the owner denoting that the property in the stock bearing it has passed from the owner to some other person.

Allotting of brands

2 Subject to the regulations, brands of any form or combination of characters may be allotted to be applied to any part of the body of any stock.

RSA 1980 cB-11 s2;1998 c1 s1

Generation of brand

3(1) A brand may be generated by

- (a) a hot iron brand,
- (b) a freeze brand,
- (c) an electronic identification,
- (d) in the case of sheep, a fleece paint brand, and
- (e) any other method established in the regulations.

(2) A brand must be placed or implanted in accordance with the regulations on the locations prescribed.

RSA 1980 cB-11 s3;1992 c1 s1(3);1994 c11 s3

Vent

4 A vent may consist of

- (a) any vent brand recorded as having been allotted prior to March 1, 1898;
- (b) a second marking in the form of a letter or numeral in a horizontal or “lazy” position, immediately below the brand mark on any stock of a letter or numeral forming part or the whole of that brand.

RSA 1980 cB-11 s6

Recorder of Brands

5(1) The Minister shall appoint a person to be the Recorder of Brands and establish the terms and conditions of service, including remuneration and expenses, applicable to the Recorder if the person is not an employee as defined in the Public Service Act.

(2) The Recorder shall keep a record of all brands, including honorary brands, allotted under this Act, and of their purchase, allotment date, cancellation and transfer, together with the names of the owners or transferees of those brands.

(3) The Recorder may delegate any of the Recorder’s powers, duties or functions under this Act to any person.

RSA 1980 cB-11 s8;1992 c1 s1(6);1994 c11 s4;1998 c1 s1

Honorary brands

6(1) An application for the allotment of an honorary brand is to be made to the Minister or a person designated by the Minister.

(2) The application shall be accompanied with the prescribed fee.

(3) If an application is granted, the Minister or a person designated by the Minister shall deliver a certificate of the allotment to the person receiving the honorary brand.

1992 c1 s1(7)

Purchase instead of renewal system for brands

7(1) An allotment of a new brand after 1994 may be made only by way of a sale and purchase of the brand under this Act.

(2) Brands that were held at the end of 1994 may not be renewed under the quadrennial renewal system previously applicable and may only be purchased under this Act, but a renewal made before 1995 that expires after 1994 continues to have full effect until the term for which the renewal was made expires.

(3) If a brand referred to in subsection (2) is purchased under this Act with effect from the expiry of the term of its final renewal made before 1995, the brand continues to be allotted to the purchasing owner and retains its original allotment date, and if it is not so purchased it then ceases to belong and be allotted to the owner and may be resold and allotted under subsection (1) as if it were a new brand.

(4) The Recorder shall enter and keep all records necessary for the proper implementation of this section and shall provide purchasing owners with sufficient documentation evidencing their purchases.

(5) Fees payable for the purchase of brands must be paid in accordance with the regulations.

1994 c11 s5

Allotment of brand

8(1) An application for the allotment, purchase or transfer of the exclusive right to use a brand, other than an honorary brand, is to be made to the Recorder and shall be accompanied with the prescribed fee.

(2) The Recorder if satisfied that the application conforms with the requirements of this Act shall

- (a) grant the application,
- (b) forthwith record the allotment, purchase or transfer, and
- (c) if an allotment is made, deliver a certificate of the allotment to the applicant,

unless the Minister instructs the Recorder to refuse the application.

RSA 1980 cB-11 s9;1992 c1 s1(8);1994 c11 s6

Certificate of allotment

9(1) The person to whom the exclusive right to use a brand is allotted or transferred and in whose name it is recorded is the owner of the brand.

(2) The Recorder shall deliver or send to the person referred to in subsection (1) a certificate of the allotment or renewal and of the recorded entry of the allotment or transfer.

(3) A certificate purporting to be signed by the Recorder under this section shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the ownership of the brand without proof of the signature or official character of the person signing the certificate.

RSA 1980 cB-11 s10;1994 c11 s7

Use of brand

10(1) The owner of a brand, other than an honorary brand, has the exclusive right to the use of the brand until the cancellation of it, and during that period the mark of that brand on stock not bearing the mark of a subsequent vent shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the ownership by the owner of the brand of the animal bearing the brand.

(2) No such presumption of ownership arises or shall be given effect to if the brand on an animal has not been recorded or has been cancelled prior to the evidence being tendered.

RSA 1980 cB-11 s11;1992 c1 s1(9)

Searches and extracts

11 On payment of the prescribed fees, any person may search the record of brands other than honorary brands or have the record searched and obtain certified extracts from the record during the regular business hours of the Recorder.

RSA 1980 cB-11 s12;1992 c1 s1(10)

Publication of recorded brands

12 The Minister may, at the times and in a manner that to the Minister seems advisable, publish a complete list of the brands, other than honorary brands, recorded under this Act and may make a reasonable charge for any volume containing the list.

RSA 1980 cB-11 s13;1992 c1 s1(11)

Change in brand

13 The Recorder, with the approval of the Minister, may make changes, not inconsistent with this Act, in any brand, other than an honorary brand, or in the form or position of it, on the application of any owner, accompanied with the prescribed fee.

RSA 1980 cB-11 s14;1992 c1 s1(12)

Cancellation of similar brands

14 If 2 or more owners of stock have the same or similar brands recorded, the Minister, if the Minister considers it advisable, may direct the cancellation of the brand last recorded, or with the

consent of the owner, any brand previously recorded, and may allot another instead of it, without charge.

RSA 1980 cB-11 s16

Transfer of brand

15(1) A transfer of ownership of a brand recorded under this Act

- (a) shall be in the prescribed form, and
- (b) is not effective until it is submitted to and recorded by the Recorder.

(2) The Recorder may refuse to record a transfer submitted to the Recorder if

- (a) it is not executed by the transferor and the transferee in the manner and accompanied with proof of execution satisfactory to the Recorder, and
- (b) the prescribed fee is not paid.

(3) When a transfer is executed by an attorney or agent, proof of the authority of the attorney or agent in a form satisfactory to the Recorder shall be submitted to the Recorder.

(4) When the Recorder records the transfer, the transferee becomes the owner of the brand and the transferor's exclusive right to the use of the brand is cancelled.

(5) A transfer recorded under this section is valid against and takes priority over any unrecorded transfer.

(6) An owner may transfer the ownership of a brand to the owner and another or others and 2 or more persons who are the owner of a brand may transfer it to one or more of them.

RSA 1980 cB-11 s17;1994 c11 s9

Offences and penalties

16(1) A person who

- (a) brands, or directs, aids or assists in branding, any stock with a brand that has not been recorded or reserved under this Act or that has been cancelled under this Act,
- (b) brands or causes, directs or permits to be branded with the person's own or with any brand or vent, any stock of which the person is not the owner, or
- (c) blotches, defaces or otherwise renders illegible, or alters any brand or vent on stock, or directs, causes or permits any such brand or vent to be blotched, defaced or otherwise rendered illegible or to be altered,

is guilty of an offence and, in addition to any other penalty to which the person may be subject by law, liable to a fine not exceeding \$2000.

(2) Notwithstanding subsection (1), an owner of a recorded brand may apply

(a) an age brand consisting of one arabic numeral from 0 to 9 inclusive, on the shoulder or thigh and, in the case of horses or cattle, on the same side as the recorded brand, or

(b) an individual animal number brand to cattle, consisting of one or more arabic numerals on the same side as the recorded brand.

(3) Notwithstanding subsection (1)(b), no person is guilty of an offence who, being the vendor of an animal, places any mark on the animal denoting that the property in the stock bearing it has passed from the vendor to some other person.

(4) A person who knowingly brands, or directs, aids or assists in branding, any stock with an honorary brand is guilty of an offence.

(5) A person who contravenes this Act or the regulations otherwise than as referred to in subsections (1) and (4) is guilty of an offence.

(6) A prosecution under this section may be commenced within 2 years of the commission of the alleged offence but not afterwards.

RSA 1980 cB-11 s19;1992 c1 s1(15);1998 c1 s1

Possession of branded stock

17 In a prosecution for any offence set out in section 16(1)(a) or (b), the fact that the stock branded with a brand, mark or vent is found in the possession of the accused is proof, in the absence of evidence to the contrary, that the brand, mark or vent was placed on the stock by the accused, by the accused's direction with the accused's aid or assistance or that the accused caused, directed or permitted the brand, mark or vent to be placed on the stock.

RSA 1980 cB-11 s20

Self-government

18(1) The Minister may make regulations

(a) respecting the establishment of delegated authorities;

(b) delegating to one or more delegated authorities any of the powers, duties or functions of the Minister or of the Recorder under this Act or the regulations, except the power of the Minister to make regulations under this section or section 26;

(c) imposing conditions on the delegated powers, duties or functions;

(d) limiting the liability of a delegated authority and its employees, agents, directors or officers in an action for negligence with respect to the delegated power, duty or function when the delegated authority and its employees, agents, directors or officers act in good faith pursuant to the delegation, including but not limited to providing that any limitation of liability applicable to the Recorder may be made applicable to a delegated authority and its employees, agents, directors or officers when they carry out the Recorder's power, duty or function;

(e) respecting an appeal from an action or a decision of a delegated authority or its employees, agents, directors or officers;

(f) authorizing a delegated authority to collect money by the levy of fees and charges with respect to the delegated power, duty or function on persons or classes of persons specified in the regulations, respecting how the fees and charges are to be imposed, collected and accounted for and authorizing the delegated authority to use the money for any purpose related to the operation of the delegated authority in the carrying out of a delegated power, duty or function;

(g) respecting the payment of a fee to a delegated authority for the carrying out of a delegated power, duty or function;

(h) authorizing a delegated authority to collect, on behalf of the Crown, any money lawfully due to the Crown under this Act and respecting how the money is collected and accounted for and remitted to the Minister;

(i) respecting records that a delegated authority is required to maintain;

(j) respecting the annual report under section 24;

(k) respecting the confidentiality of information obtained by the delegated authority and its employees, agents, directors or officers while carrying out a delegated power, duty or function;

(l) respecting the inspection of premises where a delegated authority or its employee, agent, director or officer is carrying out a delegated power, duty or function and authorizing the Minister to make copies of any document or other record related to the delegated power, duty or function;

(m) respecting the carrying out of an audit of the delegated authority with respect to its delegated powers, duties and functions and authorizing the Minister to charge reasonable costs incurred in carrying out the audit.

(2) When a delegation is made under subsection (1),

(a) a reference in this Act or the regulations to the Minister or to the Recorder with respect to delegated powers, duties or functions is to be read as if it were a reference to the delegated authority, and

(b) a person who is affected by an action taken or a decision made by a delegated authority pursuant to the delegation may appeal the action or decision in accordance with the regulations under subsection (1).

(3) Notwithstanding the Financial Administration Act, any money collected by a delegated authority pursuant to subsection (1)(f) or (g) or section 23 belongs to the delegated authority.

(4) If the regulations establish a maximum amount of a fee that a delegated authority may charge for providing a service, the delegated authority may not charge or collect a fee that is greater than that maximum amount.

RSA 2000 cB-6 s18;2006 c23 s16

Rules

19(1) A delegated authority may make rules

(a) respecting the carrying out of a delegated power, duty or function;

(b) delegating to the employees or agents of the delegated authority and, in the case of a corporation, to its employees, agents, directors or officers, the carrying out of a delegated power, duty or function, except the power to make rules under this subsection.

(2) A rule made under subsection (1) is not in force until it is approved by the Minister.

(3) The Regulations Act does not apply to a rule made under this section.

1998 c1 s1

Not Crown agent

20 With respect to a delegation, a delegated authority and its employees, agents, directors or officers are not agents of the Crown.

1998 c1 s1

Financial Administration Act not applicable

21 The Financial Administration Act does not apply to a delegated authority with respect to a delegated power, duty or function.

1998 c1 s1

Business Corporations Act, s122(4)

22 Section 122(4) of the Business Corporations Act does not apply to a corporation that is a delegated authority in respect of the carrying out of a power, duty or function under this Act.

1998 c1 s1

Collections

23 A fee or charge levied pursuant to the regulations under section 18(1)(f) is recoverable by the delegated authority as a debt due to the delegated authority.

1998 c1 s1

Reports

24(1) A delegated authority shall, after the end of its fiscal year, prepare and submit to the Minister an annual report with respect to its powers, duties and functions under this Act.

(2) The annual report must include a general summary of the delegated authority's policies and activities in that year, any rules made under section 19 in that year and a financial report that includes an audited financial statement.

(3) The Minister shall lay a copy of the annual report before the Legislative Assembly if it is then sitting, and if it is not then sitting, within 15 days after the commencement of the next sitting.

(4) A delegated authority shall on the written request of the Minister provide the Minister with other reports as specified by the Minister in the request.

1998 c1 s1

Forms

25 A delegated authority may establish and use forms other than those prescribed by regulation.

1998 c1 s1

Regulations

26 The Minister may make regulations

(a) defining, for the purposes of this Act and the regulations, brand, character, electronic identification and honorary brand;

(b) prescribing forms for use under this Act;

(c) respecting fees payable for allotments, purchases, transfers and other recordings made and for other services and materials provided under this Act, including the imposition of different fees for different categories of brands, persons or services;

(d) respecting any matters that the Minister considers are required for the proper implementation of section 7;

(e) restricting allotments of brands whose owners do not exercise their rights to purchase under section 7;

(f) respecting the location of brands and the placement of brands, including the implanting of electronic identification;

(g) respecting the establishment of methods of branding stock;

(h) respecting applications for allotment of

(i) honorary brands under section 6;

(ii) brands under section 8;

(i) prescribing different categories of brands.

RSA 1980 cB-11 s21;1992 c1 s1(16);1994 c11 s10;

1998 c1 s1