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Animal (Brands and Movement) Act 1984

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Animal (Brands and Movement) Act 1984

An Act to provide for the compulsory identification of cattle, sheep, pigs and other animals, the regulation of the movement of animals, a system of permanent identification of animals, and incidental and other purposes

[Royal Assent 18 April 1984]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART I - Preliminary

1. Short title

This Act may be cited as the Animal (Brands and Movement) Act 1984 .

2. Commencement

(1) This section and section 1 shall commence on the day on which this Act receives the Royal Assent.

(2) Except as provided in subsection (1) , this Act shall commence on such day as may be fixed by proclamation.

3. Interpretation

In this Act, unless the contrary intention appears –

animal has the same meaning as in the Animal Health Act 1995 ;

appointed day means the day declared, by order under section 4 , to be the appointed day for the purposes of a provision of this Act;

body-brand, in the case of any cattle or sheep, means a brand elsewhere than on the head or neck of the cattle or sheep;

body-tattoo, in the case of a pig, means a tattoo elsewhere than on the head or neck of the pig;

brand, in the case of –

(a) any cattle or sheep, means an earmark or a body-brand; or

(b) a pig, means a body-tattoo –

and **to brand** means, in the case of –

(c) a brand that is an earmark, to punch, clip, or tattoo that brand; or

(d) a brand that is a body-brand or body-tattoo, to impress that brand so as to cause an indelible mark;

cattle means bulls, cows, oxen, heifers, steers, or calves, and where the context shows that the singular number is intended, means a bull, cow, ox, heifer, steer, or calf;

certificate means a certificate of the registration of a brand or tag under this Act or a certificate of the transfer of the right to a registered brand or registered tag;

Chief Veterinary Officer means the person holding office as Chief Veterinary Officer under the Animal Health Act 1995 ;

directory means the directory compiled under section 7 ;

disease has the same meaning as in the Animal Health Act 1995 ;

earmark, in the case of any cattle or sheep, means a mark that is –

(a) punched or clipped in the ear; or

(b) tattooed on the ear –

of the cattle or sheep;

inspector has the same meaning as in the Animal Health Act 1995 ;

owner, in relation to cattle, sheep, or pigs, includes any number of joint owners;

permanent identification device means a device that –

- (a) bears a unique code relating to the premises on which any animal resides when the device is attached to, or inserted in, the animal; and
- (b) is intended to remain attached to, or inserted in, that animal; and
- (c) is approved by the Chief Veterinary Officer to be a permanent identification device;

person in charge, in relation to any animal, includes the owner and any other person who is for the time being in charge, or who for the time being has the possession or control, of the animal (whether on behalf of, or under the direction of, the owner of the animal or not), but, in relation to any cattle held in a municipal pound, does not include the keeper of the pound;

premises includes –

- (a) any land, curtilage, building and body of water; and
- (b) any place used for the handling, testing, treatment, storage, holding, processing, delivery or acceptance of any animal; and
- (c) any part of premises;

proprietor means the person in whose name a brand or tag is registered;

register means the register kept under section 6 ;

registered means registered under this Act;

Registrar means the Registrar of Animal Brands appointed and holding office under section 5 ;

the regulations means regulations made and in force under this Act;

sell includes –

- (a) offer or expose for sale;
- (b) keep or have in possession for sale;
- (c) barter or exchange;
- (d) agree to sell;
- (e) send, forward, or deliver for sale; and
- (f) authorize, direct, cause, attempt, or permit any act referred to in paragraph (a) , (b) , (c) , (d) , or (e) ;

sheep means rams, ewes, wethers, or lambs, and where the context shows that the singular number is intended, means any ram, ewe, wether, or lamb;

tag, as a noun, means a tag or label of a kind prescribed in the regulations or any other means of identification of animals and, as a verb, means to attach a tag to an animal.

4. Appointed days

- (1) The Governor may, by order, declare a day to be the appointed day for the purposes of a provision of this Act.
- (2) The Governor may declare different appointed days in respect of different provisions of this Act.

PART II - Registrar of Stock Brands and Other Officers: The Register and the Directory

5. Registrar of Animal Brands

The Secretary of the Department may appoint a State Service officer or State Service employee employed in the Department to be Registrar of Animal Brands who shall be subject to the control of the Secretary of the Department and that officer or employee is to hold office as Registrar in conjunction with State Service employment.

6. Register of brands and tags to be kept

- (1) The Registrar shall keep, in the form prescribed in the regulations, a register, to be called the "Register of Animal Brands and Tags".
- (2) Where an application for the registration of a brand or tag is granted under section 11 , the brand or tag shall be registered in the name of the applicant as the proprietor of the brand or tag by the entry in the register of –
 - (a) particulars of that brand or tag and of the date on which that brand or tag is registered; and
 - (b) such other particulars (if any) in respect of that brand or tag as the Registrar considers appropriate or as may be prescribed in the regulations for the purposes of this subsection.
- (3) In addition to the particulars referred to in subsection (2) , the Registrar shall enter in the register –
 - (a) particulars of the transfer of the right to a registered brand or registered tag and of the date of the transfer; and
 - (b) particulars of the cancellation of the registration of a registered brand or registered tag and of the date of the cancellation.
- (4) If brands are used or required to be used under the Animal Health Act 1995 , or regulations made under that Act, in connection with the control of a disease, the Registrar shall register each of those brands by the entering in the register of –
 - (a) particulars of that brand and of the date on which that brand is registered;
 - (b) particulars of the persons who are, or the classes of persons which are, so using or required to use that brand;
 - (c) particulars of the circumstances in which those persons or classes of persons are so using or required to use that brand; and
 - (d) particulars of that disease.
- (5) The Registrar may from time to time make such alterations in the register as he considers to be necessary.

7. Directory of registered brands and tags to be compiled

- (1) The Registrar shall, as soon as possible after the register has been established, compile a directory, to be called the "Directory of Animal Brands and Tags".
- (2) The directory shall contain –
 - (a) in respect of the brands registered as provided in section 6 (2) –
 - (i) an alphabetical list of the names of the proprietors of those brands;
 - (ii) particulars of each of those brands and of the date on which it was registered; and
 - (iii) such other particulars (if any) in respect of those brands as the Registrar considers appropriate or as may be prescribed in the regulations for the purposes of this paragraph;
 - (b) in respect of the tags registered as provided in section 6 (2) –

- (i) an alphabetical list of the names of the proprietors of those tags;
 - (ii) particulars of each of those tags and of the date on which it was registered; and
 - (iii) such other particulars (if any) in respect of those tags as the Registrar considers appropriate or as may be prescribed in the regulations for the purposes of this paragraph; and
- (c) in respect of the brands registered as provided in section 6 (4) –
- (i) particulars of each of those brands;
 - (ii) particulars of the persons who are, or the classes of persons which are, required to use those brands;
 - (iii) particulars of the circumstances in which those persons or classes of persons are required to use those brands in connection with the disease;
 - (iv) particulars of that disease; and
 - (v) such other particulars (if any) in respect of those brands as the Registrar considers appropriate or as may be prescribed in the regulations for the purposes of this paragraph.
- (3) As soon as possible after 1st January in each year after the year in which the directory is compiled, the Registrar shall bring the directory up to date –
- (a) by entering in the appropriate list in the directory –
- (i) the names of the proprietors of any brands registered as provided in section 6 (2) since the time that the directory was compiled or last brought up to date, as the case may be, together with the other particulars in respect of those brands referred to in subsection (2) (a) ;
 - (ii) particulars of the transfers of the rights to any registered brands since that time, together with the dates of those transfers;
 - (iii) particulars of the cancellation of the registration of any brands since that time, together with the dates of those cancellations;
 - (iv) the names of the proprietors of any tags registered as provided in section 6 (2) since that time, together with the other particulars in respect of those tags referred to in subsection (2) (b) ;
 - (v) particulars of the transfers of the rights to any registered tags since that time, together with the dates of those transfers; and
 - (vi) particulars of the cancellation of the registration of any tags since that time, together with the dates of those cancellations; and
- (b) by making any alterations that are necessary with respect to the part of the directory relating to brands registered as provided in section 6 (4) .
- (4) A member of the public may inspect, and make a copy of any entry in, the directory at the office of the Registrar at all times during which that office is open for business.
- (5) A fee of an amount determined by the Registrar is payable for any inspection or copy made pursuant to subsection (4) .

PART III - Branding and Tagging: Registration and Implementation

Division 1 - Registrations of brands and tags

8. Obligation to brand cattle and sheep with registered earmarks

- (1) The person in charge of any cattle or sheep shall, before each of the cattle or sheep attains the age of 6 months, brand it or cause it to be branded with a registered earmark of which the owner of the cattle or sheep is the proprietor.
- (2) Subsection (1) does not apply to any cattle or sheep of a class or kind prescribed in the regulations or to any sheep used for a purpose prescribed in the regulations.
- (3) The person in charge of any cattle or sheep who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.
- (4) It is a defence in any proceedings for an offence under subsection (1) for the person in charge of any cattle or sheep who is not the owner of the cattle or sheep to show that that owner is not the proprietor of a registered earmark.

9. Rights in respect of the registration of body-brands for cattle and sheep and tags for cattle

- (1) Subject to this section, a person who is the owner of any cattle may be registered under section 6 (2) as the proprietor of –
 - (a) one body-brand;
 - (b) one tag; or
 - (c) one body-brand and one tag –

to be used for the purpose of indicating that those cattle belong to that person.

- (2) Except as provided by subsection (1) and as required for the purposes of section 8 , the owner of any cattle shall not be registered as the proprietor of a brand or tag.
- (3) Subject to this section, a person who is the owner of any sheep may be registered under section 6 (2) as the proprietor of one body-brand to be used for the purpose of indicating that those sheep belong to that person.
- (4) Except as provided by subsection (3) and as required for the purposes of section 8 , the owner of any sheep shall not be registered as the proprietor of a brand.

10. Obligation to brand pigs before sale or before slaughter at premises other than those where they are kept by or on behalf of their owners

- (1) On or after the appointed day, the person in charge of a pig over 10 weeks of age –
 - (a) shall not sell the pig or cause the pig to be sold; or
 - (b) shall not send the pig, or cause the pig to be sent, from the premises where it is kept by or on behalf of its owner to any other premises for the purpose of being slaughtered –
unless, within 7 days before the pig is sold or is sent to those other premises for that purpose –
 - (c) it has been branded in the manner, and on a part of its body, prescribed in the regulations with the registered body-tattoo of which the owner of the pig is the proprietor; and
 - (d) that body-tattoo so branded is of the nature and dimensions prescribed in the regulations in relation to it.

Penalty: Fine not exceeding 10 penalty units.

- (2) Notwithstanding subsection (1) , a person –

- (a) may sell a pig that is not branded with the registered body-tattoo of which the owner of the pig is the proprietor or cause a pig that is not so branded to be sold; or
- (b) may send a pig that is not so branded, or cause a pig that is not so branded to be sent, to premises for the purpose referred to in paragraph (b) of that subsection –
if –
- (c) the pig was purchased by the owner and delivered to him or her by the previous owner within 7 days before the pig is sold or is sent to those premises for that purpose and at the time of delivery bore the registered body-tattoo of which the previous owner was the proprietor; or
- (d) the pig is tagged in accordance with the regulations.

11. Applications for registration: disposal of applications

- (1) The owner of any cattle or sheep who requires a registered earmark for the purposes of section 8 (1) shall apply to the Registrar for the registration in his name of an earmark of such nature and dimensions as are prescribed in the regulations.
- (2) The owner of any cattle who wishes to be registered, pursuant to section 9 (1) , as the proprietor of a body-brand or tag for those cattle shall apply to the Registrar for the registration in his name of a body-brand or tag of such nature and dimensions as are prescribed in the regulations.
- (3) The owner of sheep who wishes to be registered, pursuant to section 9 (3) , as the proprietor of a body-brand for those sheep shall apply to the Registrar for the registration in his name of a body-brand of such nature and dimensions as are prescribed in the regulations.
- (4) The owner of a pig who requires a registered body-tattoo for the purposes of section 10 (1) shall apply to the Registrar for the registration in his name of a body-tattoo of such nature and dimensions as are prescribed in the regulations.
- (5) The corporation of a municipality that requires a registered body-brand or registered body-tattoo for the purposes of section 21 shall apply to the Registrar for the registration in its name of a body-brand or body-tattoo of such nature and dimensions as are prescribed in the regulations.
- (6) An application under this section for the registration of a brand or tag –
 - (a) shall be in writing;
 - (b) shall contain a design of the brand or tag, except in the case of an application under subsection (4) or an application under subsection (5) for the registration of a body-tattoo;
 - (c) shall, in the case of an application under subsection (5) , contain the address of the relevant municipal pound;
 - (d) shall contain the particulars, if any, prescribed in the regulations; and
 - (e) shall be accompanied by the fee prescribed in the regulations.
- (7) The Registrar may require an application under this section to be verified by statutory declaration or such other evidence as the Registrar thinks sufficient.
- (8) Subject to subsection (10) , the Registrar shall grant an application under this section unless, as provided by subsection (9) , he is required to refuse to grant that application.
- (9) Except as provided in subsection (10) , the Registrar shall refuse to grant an application under this section if –
 - (a) he is not satisfied that the application complies with the provisions of this section; or
 - (b) in the case of an application that is required by subsection (6) (b) to contain a design of the brand or tag to which it relates, the design contained in the application –
 - (i) is the same as the design of a registered brand or registered tag, as the case may be;

(ii) in the opinion of the Registrar, so nearly resembles the design of a registered brand or registered tag, as the case may be, as to cause, or be likely to cause, confusion; or

(iii) is, in the opinion of the Registrar, unsuitable for any other reason.

(10) The Registrar may, instead of refusing an application on a ground specified in subsection (9) (b) , modify the design of the brand or tag contained in the relevant application and, if he does so –

(a) the Registrar shall give a written notification to the applicant –

(i) containing particulars of the design as so modified by him; and

(ii) stating that, if the applicant fails, within 21 days after being so notified, to advise the Registrar that he does not wish to be registered as proprietor of the brand or tag as so modified in design, the Registrar shall grant the application and register the applicant as proprietor of the brand or tag as so modified in design; and

(b) the Registrar –

(i) in a case where the applicant fails to advise him as provided in paragraph (a) (ii) , shall grant the application and register the applicant as proprietor of the brand or tag, as the case may be, as so modified in design; or

(ii) in a case where the applicant advises him as provided in that paragraph, shall refuse the application.

(11) Subject to subsection (10) , where the Registrar grants an application under this section, he shall, as provided in section 6 (2) , register the brand or tag to which the application relates.

(12) Where the Registrar refuses an application under this section, he shall specify the reasons for the refusal and shall serve on the applicant a notice notifying the refusal and the reasons for the refusal.

(13) The owner of any cattle or sheep who fails to make an application under this section for the registration of an earmark for the purposes of section 8 (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

(14) The owner of a pig who requires a registered body-tattoo for the purposes of section 10 (1) and who fails to make an application under this section for those purposes is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

(15) The corporation of a municipality that requires a registered body-brand or registered body-tattoo for the purposes of section 21 and that fails to make an application under this section for those purposes is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

12. Certificate of registration of brand or tag: issue of duplicate certificates of registration and certificates of transfer

(1) On the registration of a brand or tag as mentioned in section 11 (11) , the Registrar shall issue to the proprietor of the brand or tag a certificate of its registration in the form prescribed in the regulations.

(2) Where the holder of a certificate claims that the certificate has been lost or destroyed, he may make an application in accordance with subsection (4) to the Registrar for the issue of a duplicate certificate.

(3) On receipt of an application made under subsection (2) , the Registrar shall, if after the production of such evidence as he may require he is satisfied that the certificate has been lost or destroyed, issue a duplicate certificate to the applicant in place of the original certificate.

(4) An application under subsection (2) shall –

(a) be in the form, and contain the information, prescribed in the regulations;

(b) be made in the manner prescribed in the regulations; and

(c) be accompanied by the fee prescribed in the regulations.

(5) On the issue of a duplicate certificate under subsection (3), the original certificate shall be deemed to be cancelled and the duplicate certificate has the same effect as the original certificate had.

Division 2 - Transfers and cancellations of registered brands and tags

13. Transfer of registered brands and tags

(1) Subject to subsection (2), the proprietor of a registered brand or registered tag who wishes to transfer the right to that brand or tag to another person may apply to the Registrar to have that right transferred to that other person.

(2) An application may not be made under subsection (1) for the transfer of the right to –

(a) a registered brand to a person who is already the proprietor of a registered brand; or

(b) a registered tag to a person who is already the proprietor of a registered tag.

(3) An application under subsection (1) –

(a) shall be in writing;

(b) shall contain the consent of the person to whom the proprietor of the registered brand or registered tag wishes to transfer the right to that brand or tag;

(c) shall contain the particulars (if any) prescribed in the regulations; and

(d) shall be accompanied by the fee prescribed in the regulations.

(4) The Registrar shall grant an application under subsection (1) if he is satisfied that the application complies with this section, but where the Registrar is not so satisfied, he shall refuse to grant the application.

(5) Where the Registrar grants an application under subsection (1) –

(a) he shall, by entering in the register the particulars referred to in section 6 (3) (a), transfer to the person named as transferee in the application the right to use the registered brand or registered tag to which the application relates; and

(b) he shall issue to that person a certificate of the transfer in the form prescribed in the regulations.

(6) Where, as mentioned in subsection (5) (a), the right to use a registered brand or registered tag is transferred to a person, that person is the proprietor of that brand or tag for the purposes of this Act.

14. Death of proprietor of registered brand or tag

(1) Where the proprietor of a registered brand or registered tag (in this subsection referred to as "the deceased") dies, his personal representative may, by virtue of his appointment as a personal representative, use the brand or tag until –

(a) the expiration of 6 months after the date of the death of the deceased;

(b) his appointment as a personal representative is terminated; or

(c) the distribution of the estate of the deceased is completed –

whichever first occurs.

(2) Where a personal representative uses a registered brand or registered tag pursuant to subsection (1), the personal representative shall be deemed to be the proprietor of that brand or tag.

15. Cancellation of registration of brands and tags

(1) If the proprietor of a registered brand or registered tag does not further require the use of that brand or tag, he shall immediately give written notice to the Registrar of that fact.

(2) The proprietor of a registered brand or registered tag who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding 2 penalty units.

- (3) Notwithstanding the absence of a notice under subsection (1) , the Registrar shall, if he is satisfied that the use of a registered brand or registered tag is no longer required by the proprietor of the brand or tag, cancel the registration of the brand or tag.
- (4) Where the proprietor of a registered brand or registered tag is a body corporate or firm and the Registrar is satisfied that the body corporate or firm has been wound up or dissolved, he shall cancel the registration of the brand or tag.
- (5) Without prejudice to subsection (3) , the Registrar may, within 30 days after the end of each period of 10 years after the date on which a brand or tag is registered as provided in section 6 (2) , serve a notice on the proprietor of the brand or tag informing him that the Registrar will cancel the brand or tag unless the proprietor shows cause to the satisfaction of the Registrar, within 30 days after the service of the notice on the proprietor, that he still requires to use that brand or tag.
- (6) Where the Registrar serves a notice under subsection (5) on the proprietor of a registered brand or registered tag, the Registrar shall cancel the registration of the brand or tag if he –
- (a) receives a response to that notice claiming to show cause for reasons which the Registrar regards as not being satisfactory; or
 - (b) does not receive any response to that notice.
- (7) Where, pursuant to subsection (3) or (6) , the Registrar cancels the registration of a brand or tag, he shall forward to the person who was the proprietor of the brand or tag a certificate stating that the registration has been cancelled.

Division 3 - Supplementary

16. False or misleading statements

A person who –

- (a) in evidence required under section 11 (7) , makes a statement, whether orally or in writing; or
- (b) in an application under this Part, makes a statement –

that, to his knowledge, is false or misleading as to a material particular is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

PART IV - Other Provisions Relating to Branding and Tagging

17. General provision with respect to branding of cattle, sheep, and pigs

Except as provided by or under this Act, or by or under the Animal Health Act 1995 , a person is not required to brand any cattle, sheep, or pig.

18. Application of registered earmarks to cattle and sheep

(1) Where the person in charge of any cattle or sheep brands any of the cattle or sheep or causes any of them to be branded with the registered earmark of which the owner of the cattle or sheep is the proprietor, that person shall –

(a) ensure that that registered earmark is of the nature and dimensions prescribed in the regulations in relation to that earmark; and

(b) brand that earmark or cause that earmark to be branded on –

(i) the near or left ear of each of the cattle or sheep, in the case of a male; or

(ii) the off or right ear of each of the cattle or sheep, in the case of a female.

(2) The person in charge of any cattle or sheep who fails to comply with subsection (1) (a) or (b) is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

(3) Subject to subsection (3A) , the person in charge of any cattle or sheep shall not mark, or cause to be marked, with a mark or brand other than the registered earmark of which the owner of the cattle or sheep is the proprietor, the ear of any of those cattle or sheep that is prescribed by subsection (1) (b) as the ear on which that registered earmark shall be branded.

Penalty: Fine not exceeding 10 penalty units.

(3A) Subsection (3) does not apply to the marking of an ear of any cattle or sheep with a permanent identification device.

(4) The person in charge of any cattle or sheep shall, in such cases and in such manner as are prescribed in the regulations, mark, or cause to be marked, the ear of any of those cattle or sheep that is not the ear prescribed by subsection (1) (b) as the ear on which that registered earmark shall be branded.

(5) Where regulations for the purposes of subsection (4) are in force, the person in charge of any cattle or sheep who –

(a) fails to mark any of those cattle or sheep, or fails to cause any of them to be marked, in a case prescribed in those regulations; or

(b) fails to mark any of those cattle or sheep, or fails to cause any of them to be marked, in the manner prescribed in those regulations in relation to such a case –

is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

19. Application of registered body-brands to cattle and sheep by persons in charge of them

(1) Where the person in charge of any cattle or sheep brands them, or causes them to be branded, with the registered body-brand of which the owner of the cattle or sheep is the proprietor, that person shall ensure that that registered brand is of the nature and dimensions prescribed in the regulations in relation to that brand.

(2) The person in charge of any cattle or sheep who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

20. Branding of sheep

(1) A person who brands a sheep, or causes a sheep to be branded, with a preparation that is not prescribed in the regulations as one of the preparations with which sheep shall be branded is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

(2) A butcher may, for the purposes of identification, brand with a body-brand a sheep purchased by him for slaughtering, notwithstanding that the sheep has already been branded with a body-brand, if he brands the sheep with a preparation that is prescribed in the regulations.

(3) A butcher who brands a sheep purchased by him for slaughtering with a preparation that is not prescribed in the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

21. Provisions relating to branding of cattle, sheep, and pigs that are sold after being impounded

(1) Where, on or after the appointed day, any pig over 10 weeks of age, cattle or sheep impounded in a municipal pound is sold—

(a) by public auction by the keeper of the pound or by another person appointed to conduct the auction by the corporation of the municipality in which the pound is situated, the keeper or other person; or

(b) by private contract by the keeper of the pound, the keeper—

shall, before delivering the cattle, sheep, or pig to its purchaser, brand it, or cause it to be branded, in the case of any cattle or sheep, with a registered body-brand, or in the case of a pig, with a registered body-tattoo, of which that corporation is the proprietor, unless the pig is tagged in accordance with the regulations.

(2) A person who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

(3) It is a defence in any proceedings for an offence under subsection (2) in respect of a failure to comply with subsection (1) in relation to any cattle, sheep, or pig that has been impounded in a municipal pound for the defendant to show that the corporation of the municipality in which the pound is situated is not the proprietor of a registered body-brand, in the case of any cattle or sheep, or the proprietor of a registered body-tattoo, in the case of a pig.

(4) Where, pursuant to subsection (1), the keeper of a municipal pound or any other person brands any cattle, sheep, or pig, or causes any cattle, sheep, or pig to be branded, as the case may be, with the registered body-brand or registered body-tattoo of which the corporation of the municipality in which the pound is situated is the proprietor, that keeper or other person shall ensure that that body-brand or body-tattoo is of the nature and dimensions prescribed in the regulations in relation to that body-brand or body-tattoo.

(5) A person to whom subsection (4) applies who fails to comply with that subsection is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

22. Attachment of registered tags to cattle

(1) Where the person in charge of any cattle attaches, or causes to be attached, to any of those cattle a registered tag of which the owner of the cattle is the proprietor, that person shall ensure that that registered tag—

(a) is attached to the animal in the manner prescribed in the regulations;

(b) is of the nature and dimensions prescribed in the regulations in relation to that tag; and

(c) contains the particulars of identification prescribed in the regulations.

(2) The person in charge of any cattle who fails to comply with subsection (1) (a), (b), or (c) is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

PART IVA - Permanent Identification Devices

Division 1 - Use of permanent identification devices

22A. Application for authority to use permanent identification device, &c.

(1) A person in charge of any animal resident in any premises may apply to the Registrar for permission to do one or more of the following:

- (a) attach to, or insert in, any animal resident on those premises a permanent identification device;
- (b) alter a permanent identification device;
- (c) remove from any animal a permanent identification device;
- (d) attach to, or insert in, any animal resident on those premises a second or subsequent permanent identification device.

(2) An application is to be –

- (a) in a form approved by the Registrar; and
- (b) accompanied by any prescribed fee.

22B. Grant of permission to use, &c., permanent identification device

(1) On receipt of an application under section 22A , the Registrar may grant or refuse to grant permission to the person in charge of any animal resident on the premises specified in the application to do one or more of the following:

- (a) attach to, or insert in, any animal resident on those premises a permanent identification device;
- (b) alter a permanent identification device;
- (c) remove from any animal a permanent identification device;
- (d) attach to, or insert in, any animal resident on those premises a second or subsequent permanent identification device.

(2) A permission granted under this section is subject to –

- (a) any relevant general conditions determined under section 22E ; and
- (b) any other condition specified in the permission that is not contrary to a relevant general condition determined under section 22E .

(3) On receipt of an application under section 22A , the Registrar may refuse to grant a permission to attach to, or insert in, any animal a first, second or subsequent permanent identification device –

- (a) if the applicant, or any person working under the control or direction of the applicant, has been convicted of an offence against this Act; or
- (b) for any other reason the Registrar considers sufficient.

(4) The granting of a permission to alter or remove a permanent identification device is in the discretion of the Registrar.

(5) On refusing a permission, the Registrar must give notice, in writing, of the refusal and the reasons for the refusal to the person in charge who is refused permission.

(6) On granting a permission, the Registrar must provide to the person in charge who is granted the permission notice, in writing, of the grant of the permission and a copy of any relevant general conditions determined under section 22E .

22C. Appeals

- (1) A person in charge of any animal who is refused permission under section 22A to attach to, insert in or remove from an animal, or to alter, a first, second or subsequent permanent identification device may appeal to a magistrate within 14 days after receiving the notice referred to in section 22B(5) .
- (2) At the hearing of an appeal, the magistrate may –
 - (a) dismiss the appeal; or
 - (b) direct the Registrar to grant the permission.
- (3) The Registrar must comply with a direction given under subsection (2)(b) .
- (4) Subject to this section, an appeal is to be instituted, heard and determined as prescribed.

22D. Authority of permission

- (1) A permission granted under section 22B to attach to, or insert in, any animal a first, second or subsequent permanent identification device authorises –
 - (a) the person in charge to whom it is granted –
 - (i) to possess the number of permanent identification devices specified in the permission for the purpose of attaching to, or inserting in, any animals resident on the premises specified in the permission if those permanent identification devices are encoded with the premises identification number specified in the permission; and
 - (ii) to attach or insert those permanent identification devices, in accordance with any relevant general conditions determined under section 22E , to or in animals resident on the premises specified in the permission; and
 - (b) a person working under the direction or control of the person in charge to attach or insert those permanent identification devices, in accordance with any relevant general conditions determined under section 22E , to or in animals resident on the premises specified in the permission.
- (2) A permission granted under section 22B to alter a permanent identification device attached to, or inserted in, any animal, or in the possession of the person in charge, authorises the person in charge to whom it was granted, and any person working under the direction or control of the person in charge –
 - (a) to alter the permanent identification device in the manner specified in the permission and in accordance with any relevant general conditions determined under section 22E ; and
 - (b) if necessary to effect the alteration, to remove the permanent identification device from the animal and reattach, or reinsert, the permanent identification device to, or in, the animal.
- (3) A permission granted under section 22B to remove a permanent identification device from any animal authorises the person in charge to whom it was granted, or any person working under the direction or control of the person in charge, to remove the permanent identification device –
 - (a) at the premises specified in the permission; and
 - (b) in any manner specified in the permission; and
 - (c) in accordance with any relevant general conditions determined under section 22E .
- (4) If a person in charge of any animal resident on the premises specified in a permission granted under section 22B to attach to, or insert in, animals on those premises a first, second or subsequent permanent identification device issued by another person in charge, that other person in charge is taken to be the person to whom the permission was so granted.

22E. General conditions for use of permanent identification device

- (1) The Chief Veterinary Officer may determine the general conditions to which a permission granted under section 22B is subject.
- (2) The general conditions may relate to one or more of the following matters:

- (a) the attaching to, or insertion in, any animal of a first, second or subsequent permanent identification device;
 - (b) the possession of a permanent identification device;
 - (c) the alteration of a permanent identification device;
 - (d) the removal of a permanent identification device from any animal;
 - (e) the records to be kept by a person in charge who has, or has had, possession of any permanent identification devices or has been responsible for attaching to, or inserting in, any animal a permanent identification device;
 - (f) any other matter the Chief Veterinary Officer reasonably considers appropriate.
- (3) The Chief Veterinary Officer may at any time –
- (a) amend the determination of the general conditions; and
 - (b) revoke the determination of the general conditions; and
 - (c) revoke a determination of the general conditions and substitute a new determination.
- (4) As soon as practicable after making, amending, revoking or substituting a determination of the general conditions, the Chief Veterinary Officer must provide the Registrar with –
- (a) notice of that fact; and
 - (b) a copy of the determination of the general conditions as so made, amended or substituted.
- (5) Without limiting the conditions that may be included in a determination of the general conditions, the determination may include a condition that the person in charge to whom a permission is granted under section 22B must comply with any law or code, as amended from time to time, specified in the determination.
- (6) Conditions in a determination of general conditions may apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the determination.
- (7) A determination under this section –
- (a) is not a statutory rule within the meaning of the Rules Publication Act 1953 ; and
 - (b) is not an instrument of a legislative character for the purposes of the Subordinate Legislation Act 1992 .

22F. Duty of Registrar to publish amended or new general conditions

As soon as practicable after receiving a notice under section 22E(4) , the Registrar must publish in the *Gazette* and not less than one daily newspaper circulating generally in Tasmania notice that –

- (a) the general conditions determined under section 22E have been amended, revoked or revoked and substituted; and
- (b) where appropriate, a copy of the amended or substituted general conditions may be obtained from the Registrar.

22FA. Minister may require permanent identification

(1) If the Minister is satisfied that the prescribed circumstances exist, the Minister may, by notice published in the *Gazette*, require a person to attach to, or insert in, an animal or class of animals a permanent identification device.

(2) A person must comply with a notice under subsection (1) .

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 200 penalty units; and
- (b) an individual, a fine not exceeding 100 penalty units.

(3) A notice under subsection (1) is not a statutory rule for the purposes of the Rules Publication Act 1953 .

(4) For the purposes of this section, the prescribed circumstances exist if –

- (a) the area containing an animal or class of animals has been declared to be a restricted area, a control area or a protected area under the Animal Health Act 1995 ; or
- (b) a body representative of a national animal farming industry has required that an animal or class of animals be marked with a permanent identification device; or
- (c) a body representative of a Tasmanian animal farming industry approves the marking of an animal or class of animals with a permanent identification device.

22G. Offences

(1) A person must not deface or copy a permanent identification device.

Penalty: In the case of –

- (a) a body corporate - a fine not exceeding 200 penalty units; and
- (b) an individual - a fine not exceeding 100 penalty units.

(2) A person must not do any of the following except where that person has permission to do so granted under section 22B :

- (a) attach to, or insert in, any animal a permanent identification device;
- (b) alter a permanent identification device;
- (c) remove a permanent identification device from any animal.

Penalty: In the case of –

- (a) a body corporate - a fine not exceeding 200 penalty units; and
- (b) an individual - a fine not exceeding 100 penalty units.

(3) A person must not attach to, or insert in, any animal a device that is similar to, and could be mistaken for, a permanent identification device attached to, or inserted in, the animal under a permission to do so granted under section 22B .

Penalty: In the case of –

- (a) a body corporate - a fine not exceeding 200 penalty units; and
- (b) an individual - a fine not exceeding 100 penalty units.

(4) A person must not make a false representation as to whether or not any animal has a permanent identification device attached to, or inserted in, it.

Penalty: In the case of –

- (a) a body corporate - a fine not exceeding 200 penalty units; and
- (b) an individual - a fine not exceeding 100 penalty units.

(5) It is a defence to a charge for an offence against subsection (4) for the person charged to show that the representation was made in the belief that it was true after all reasonable steps had been taken to ascertain whether or not the animal had a permanent identification device attached to, or inserted in, it.

(6) A person must not destroy a permanent identification device except where –

- (a) the permanent identification device has been lawfully removed from any animal; or
- (b) the permanent identification device is destroyed together with the carcass of the animal to or in which the permanent identification device is attached or inserted.

Penalty: In the case of –

- (a) a body corporate - a fine not exceeding 100 penalty units; and
- (b) an individual - a fine not exceeding 50 penalty units.

Division 2 - Miscellaneous

22H. Reuse of permanent identification devices

(1) A permanent identification device that has not been attached to, or inserted in, any animal or has been lawfully removed from any animal may be reused only in accordance with a scheme approved by the Chief Veterinary Officer.

Penalty: In the case of –

- (a) a body corporate - a fine not exceeding 200 penalty units; and
- (b) an individual - a fine not exceeding 100 penalty units.

(2) A scheme for reusing permanent identification devices may –

- (a) specify who may sterilise, and change the identification code or number of, a permanent identification device; and
- (b) provide for the notification of the Registrar and any person specified in the scheme of the changed identification code or number; and
- (c) contain any other matter the Chief Veterinary Officer considers appropriate.

22I. Control of manufacturer of permanent identification devices

(1) The regulations may make provision with respect to –

- (a) all matters concerning the manufacture of permanent identification devices; and
- (b) the standards with which permanent identification devices must comply; and
- (c) the keeping of records by manufacturers of permanent identification devices and the auditing, examination and provision of those records; and
- (d) the sale or distribution of permanent identification devices by their manufacturer; and
- (e) any matter related to a matter specified in paragraph (a), (b), (c) or (d).

(2) A regulation of a kind referred to in subsection (1) may adopt wholly or in part, with or without modification and specifically or by reference any published standards, rules, codes or specifications, whether the standards, rules, codes or specifications are published before or after the commencement of this Act.

(3) A reference in subsection (2) or the regulations to standards, rules, codes or specifications includes a reference to those standards, rules, codes or specifications as amended from time to time.

22J. Ownership of permanent identification device

A permanent identification device which is attached to, or inserted in, any animal is owned by the person who owns the animal as if the permanent identification device were a part of the animal.

22K. When permanent identification device is attached to, or inserted in, dead animal

For the purposes of this Part, a permanent identification device is attached to, or inserted in, any animal that is dead if it remains attached to, or inserted in, part of that animal.

PART V - Enforcement of Act

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24. Powers of inspectors

(1) Subject to subsection (3) and section 28 , for the purpose of ensuring that the provisions of this Act are being complied with, an inspector may at any reasonable time, with or without assistants, enter and remain in –

(a) any premises that are being used, or that he has reasonable grounds to suspect are being used, for the keeping or slaughter of animals; or

(b) any vehicle, vessel, or aircraft that has been constructed or adapted for use for the carriage of animals or is being used, or that he has reasonable grounds to suspect is being used, for the carriage of animals.

(2) Where an inspector enters any premises referred to in subsection (1) (a) or any vehicle, vessel, or aircraft referred to in subsection (1) (b) , he may –

(a) make such inspections, examinations, and inquiries as he thinks necessary for the purpose referred to in subsection (1) ;

(b) examine, with respect to matters under this Act –

(i) the occupier of any premises so entered or any person employed or engaged on or in those premises; or

(ii) the occupant of any vehicle, vessel, or aircraft so entered; and

(c) require the holder of a certificate, or a permission under section 22B , to produce the certificate or permission for inspection by the inspector; and

(d) take a sample of –

(i) the hide, skin, hair, wool, feather, shell, horn, fin or hoof of an animal; and

(ii) any urine, faeces, bone or blood of an animal; and

(iii) any secretion or excretion of an animal.

(3) An inspector shall not, before the appointed day, exercise his powers under subsections (1) and (2) in relation to pigs or in relation to a municipal pound.

(4) Without limiting the generality of subsection (2) (a) , an inspector may inspect all or any of the following things that he finds on or in any premises referred to in subsection (1) (a) or any vehicle, vessel, or aircraft referred to in subsection (1) (b) :

(a) any animal;

(b) the carcass of any animal;

(c) any branding iron or other instrument used or capable of being used for branding animals;

(d) any instrument used or capable of being used for attaching, inserting or removing a permanent identification device to, in or from an animal.

(4A) An inspector may require the person in charge of any animal to produce any one or more of the following:

(a) any permanent identification devices that are in the possession or control of the person in charge and are not attached to, or inserted in, any animal;

(b) records relating to –

(i) the branding or tagging of animals; and

(ii) the obtaining, keeping, disposal, loss, destruction or reuse of permanent identification devices; and

(iii) the attachment to, insertion in or removal from animals of permanent identification devices; and

(iv) the destruction or disposal of animals.

(5) For the purpose of making an inspection under subsection (2) (a) on or in any vehicle, vessel, or aircraft referred to in subsection (1) (b) , an inspector may request that the vehicle, vessel, or aircraft be stopped or kept stationary.

(6) Where on or in any premises referred to in subsection (1) (a) or any vehicle, vessel, or aircraft referred to in subsection (1) (b) , an inspector is about to exercise or is in the course of exercising a power conferred on him by this section and a person apparently in charge of those premises or that vehicle, vessel, or aircraft or of any work or activity carried on there requests him to produce evidence of his appointment as an inspector, it is not lawful for him to exercise or, as the case may be, to continue to exercise, that power unless he produces that evidence to that person.

(7) A person who –

(a) obstructs, hinders, delays, threatens, or assaults an inspector in the exercise of his powers under this section;

(b) fails to comply with a request of an inspector, or to answer questions asked by an inspector, made under any such power when it is within his power to comply with the request;

(c) gives an answer to such a question which, to his knowledge, is false or misleading in a material particular; or

(d) intentionally conceals a person from an inspector or prevents a person from appearing before or being examined by an inspector for the purposes of this Act or attempts so to conceal or prevent a person

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is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

25. Offences

(1) A person shall not –

(a) brand with an earmark any cattle or sheep of which he is not the person in charge, unless –

(i) he does so with the authority of the person so in charge and with the registered earmark of which the owner of the cattle or sheep is the proprietor; and

(ii) he complies with such of the provisions of this Act and the regulations that the person so in charge would have been required to comply with if he had himself branded them with that registered earmark;

(b) on or after the appointed day, brand a pig that is intended to be sold, or sent for the purpose of being slaughtered, as mentioned in section 10 (1) (b) , unless, being a person who is not in charge of the pig –

(i) he does so with the authority of the person so in charge and with the registered body-tattoo of which the owner of the pig is the proprietor; and

(ii) he complies with such of the provisions of this Act and the regulations that the person so in charge would have been required to comply with if he had himself branded it with that registered body-tattoo;

(c) in the course of branding any cattle or sheep with a brand that is not registered, brand the cattle or sheep on a part of its body that is prescribed in the regulations as a part of the body of any cattle or sheep on which a registered brand shall be branded;

(d) in the course of attaching to any cattle a tag that is not registered, attach the tag to a part of its body that is prescribed in the regulations as a part of the body of any cattle to which a registered tag shall be

attached;

(e) unless authorised under subsection (1A) , mutilate, crop, slice, cut or mark the ears of any cattle or sheep, whether living or dead, except as provided by this Act, or be in possession of any cattle or sheep, or the skins of any cattle or sheep, with ears so mutilated, cropped, sliced, cut or marked;

(f) blotch, deface, obscure, render illegible, or in any way alter any registered brands on any animal;

(g) blotch, deface, obscure, render illegible, or in any way alter any particulars on a registered tag on any cattle;

(h) unless authorised under subsection (1A) , remove an ear from a cattle skin or sheep skin, unless that ear is removed immediately before the skin is subjected to a tanning process of any kind;

(i) be in possession of a cattle skin or sheep skin from which an ear has been removed unless –

(i) that ear has been removed in the course of a tanning process of any kind; or

(ii) the person is authorised under subsection (1A) ; or

(j) unless authorised under subsection (1A) , cause, procure, permit or assist in the doing of anything prohibited by this subsection.

Penalty: Fine not exceeding 10 penalty units.

(1A) The Chief Veterinary Officer may authorise a person who is the holder of a relevant accreditation under Part 4 of the Primary Produce Safety Act 2011 to perform an act in respect of a sheep or sheep skin that would, but for this subsection, constitute a breach of subsection (1)(e) , (h) , (i) or (j) , if the Chief Veterinary Officer considers it necessary or desirable for determining the origin of that, or any other, sheep or sheep skin.

(2) Where the owner of any cattle is registered as the proprietor of a body-brand or tag, a person who is not the person in charge of the cattle shall not brand or tag the cattle, unless –

(a) he does so with the authority of the person so in charge and with that body-brand or tag; and

(b) he complies with such of the provisions of this Act and the regulations that the person so in charge would have been required to comply with if that person had branded or tagged the cattle with that body-brand or tag.

Penalty: Fine not exceeding 5 penalty units.

(3) Where the owner of any sheep is registered as the proprietor of a body-brand, a person who is not the person in charge of the sheep shall not brand the sheep, unless –

(a) he does so with the authority of the person so in charge and with that body-brand; and

(b) he complies with such of the provisions of this Act and the regulations that the person so in charge would have been required to comply with if that person had branded the sheep with that body-brand.

Penalty: Fine not exceeding 5 penalty units.

PART VI - Movement of Pigs

26. Interpretation: Part VI

In this Part, unless the contrary intention appears –

carrier means a person in possession or charge of any travelling stock;

travelling stock means any pigs being transported or moved to a destination, by any means, for a purpose referred to in section 27 (1) or after being sold as mentioned in section 27 (2) .

27. Waybill or other prescribed document to be made out for removal of pigs in certain cases

(1) Except where otherwise prescribed in the regulations, the person in charge of any pigs shall not, on or after the appointed day, cause or permit the pigs to be removed from the premises where they are kept by or on behalf of their owner to other premises for the purpose of their sale or slaughter until –

(a) there has been made out in respect of the pigs –

(i) a waybill that complies with the requirements of subsection (3) ; or

(ii) such other document in place of a waybill as is prescribed for the purposes of this section by the regulations, being a document that complies with the requirements of that subsection; and

(b) there has been given to the carrier of the pigs the original of that waybill or other document, signed by the owner of the pigs or by a person authorized by that owner.

Penalty: Fine not exceeding 5 penalty units.

(2) Except where otherwise prescribed in the regulations, where a person –

(a) at any premises where any pigs are kept by or on behalf of their owner or to which any pigs are sent for the purpose of their sale, sells those pigs on behalf of their owner; or

(b) being the keeper of a municipal pound or another person referred to in section 21 (1) (a) , sells any pigs that have been impounded in the pound –

that person shall not cause or permit the pigs to be removed from the premises or pound until –

(c) there has been made out in respect of the pigs –

(i) a waybill that complies with the requirements of subsection (3) ; or

(ii) such other document in place of a waybill as is prescribed for the purposes of this section by the regulations, being a document that complies with the requirements of that subsection; and

(d) there has been given to the carrier of the pigs the original of the waybill or other document made out for the pigs as provided by paragraph (c) , signed by that person.

Penalty: Fine not exceeding 5 penalty units.

(3) A waybill or other document prescribed for the purposes of this section shall –

(a) be made out in duplicate; and

(b) clearly indicate in writing –

(i) the date of the removal of the pigs to which the document relates;

(ii) the number of those pigs;

(iii) in the case of any pigs that are removed for a purpose referred to in subsection (1) , particulars of the registered body-tattoo of which the owner of the pigs is the proprietor;

(iv) in the case of any pigs that are removed after being sold as mentioned in subsection (2) (a) , particulars of the registered body-tattoo of which the person who was the owner of the pigs immediately before their sale was the proprietor;

- (v) in the case of any pigs that are removed after being sold as mentioned in subsection (2) (b) , particulars of the registered body-tattoo of which the corporation of the municipality in which the relevant municipal pound is situated is the proprietor;
- (vi) the premises from which those pigs are being removed;
- (vii) the destination of those pigs; and
- (viii) the name of the consignee of the pigs or his agent, as the case may be.

(4) The carrier of any travelling stock shall –

(a) during the whole of the period of the carriage of the stock to their destination, have in his possession the original of the waybill or other document made out in respect of the stock and given to him as provided by subsection (1) (b) or (2) (d) ; and

(b) on the arrival of those stock at their destination, give the original of that waybill or other document to the consignee of the stock or his agent, unless the carrier of the stock is also the purchaser of the stock.

(5) The following provisions apply to the copy of a waybill or other document made out in respect of any travelling stock pursuant to this section:

(a) in the case of a waybill or other document made out in respect of the stock as provided by subsection (1) (a) , the owner of the stock shall retain the copy of the waybill or other document;

(b) in the case of a waybill or other document made out in respect of the stock as provided by subsection (2) (c) , the person who sold the stock shall retain the copy of the waybill or other document –

for a period of 6 months commencing on the date of their removal from the premises where they were kept immediately before their removal.

(6) A person to whom subsection (5) applies who fails to comply with that subsection is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

(7) Where, as provided by subsection (4) (b) , the consignee of any travelling stock or the agent of that consignee is given the original of the waybill or other document made out in respect of the stock pursuant to this section, the consignee or agent shall retain that original for a period of 6 months commencing on the date on which it was given to him.

(8) The consignee of any travelling stock or the agent of that consignee who fails to comply with subsection (7) is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

(9) Where the carrier of any travelling stock is also the purchaser of those stock, that carrier shall retain the original of the waybill or other document given to him as provided by subsection (2) (d) for a period of 6 months commencing on the date on which it was given to him.

(10) A carrier of any travelling stock to whom subsection (9) applies who fails to comply with that subsection is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

(11) A reference in the succeeding provisions of this Part to a waybill shall be read as including a reference to any other document that may, in accordance with the regulations, be made out and used in place of a waybill.

28. Inspection of travelling stock and waybills

(1) Where an inspector exercises his powers under section 24 in relation to travelling stock, he may –

(a) notwithstanding anything in subsection (1) of that section, exercise those powers at any time; and

(b) in addition to exercising all or any of those powers, inspect the travelling stock and the waybill that relates to the stock and may compare the number of, and the registered brands appearing on, those stock with the number and registered brands specified in the waybill.

(2) Where, upon an inspection carried out pursuant to subsection (1) , the number of any travelling stock and the registered brands appearing on those stock agree with the particulars specified in the relevant waybill, the

inspector by whom the inspection was made shall endorse the waybill with his name and designation and the date and time of the inspection.

29. Offences by carriers of travelling stock

The carrier of any travelling stock who –

(a) fails to comply with paragraph (a) or (b) of section 27 (4) ; or

(b) refuses to produce the original of the waybill relating to those stock when ordered by an inspector to do so for the purposes of an inspection under section 28 –

is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

PART VIA - Infringement notices

29A. Infringement notices

- (1) The Chief Veterinary Officer may serve an infringement notice on a person, other than a person under the age of 16 years, if of the opinion that the person has committed a prescribed offence.
- (2) An infringement notice is not to relate to 4 or more offences.
- (3) An infringement notice is to be in accordance with section 14 of the Monetary Penalties Enforcement Act 2005 .

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29F. Payments to Public Account

Any payments made in respect of an infringement notice are payable into the Public Account.

29G.

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PART VII - Miscellaneous

30. Notice of mustering in certain cases

- (1)
- (2) The owner of any cattle or sheep shall comply with the prescribed requirements if he receives from a person in possession of premises written notice –
 - (a) that cattle or sheep belonging to that person have strayed into the premises of that owner; and
 - (b) requesting that that person may be given an opportunity to be present at any mustering of that owner's cattle or sheep.
- (3) For the purposes of subsection (2) , the following are the prescribed requirements to be complied with by the owner of cattle or sheep who receives a notice under that subsection:
 - (a) the owner shall give to the person by whom the notice was given not less than 24 hours', and not more than 5 days', written notice of the time and place at which the mustering of the owner's cattle or sheep will take place;
 - (b) the owner shall permit that person or his agent to be present at that mustering;
 - (c) the owner shall not, within 3 months after receiving that notice, muster any cattle or sheep on his premises without giving that person an opportunity to be present at the mustering.
- (4) The owner of any cattle or sheep who receives a notice under subsection (2) and who fails to comply with subsection (3) (a) , (b) , or (c) is guilty of an offence and is liable on summary conviction to a fine not exceeding 5 penalty units.

31. Evidentiary provisions

- (1) A document purporting to be a certificate by the Registrar and stating that –
 - (a) a brand or tag specified in that certificate was or was not, on a day or during a period specified in that certificate, a registered brand or registered tag;
 - (b) a person specified in that certificate was or was not, on a day or during a period specified in that certificate, the proprietor of a registered brand or registered tag;
 - (c) the right to a registered brand or registered tag was, on a day specified in that certificate, transferred under section 13 from the proprietor of that brand or tag to another person;
 - (d) the registration of a brand or tag was, on a day specified in that certificate, cancelled under section 15 ; or
 - (e) a person, or a class of persons, specified in that certificate was or was not, on a day or during a period specified in that certificate, a person or a class of persons required to use a brand as specified in the certificate in connection with the control of the disease specified in the certificate –

is admissible in evidence in any legal proceedings and is evidence of the matters specified in the certificate.

- (2) Where any cattle, sheep, or pig is branded with a brand that has been registered following the grant by the Registrar of an application under section 11 (1) , (2) , (3) , or (4) , the fact that the cattle, sheep, or pig is so branded is admissible in any legal proceedings and is evidence that the proprietor of the brand is the owner of the cattle, sheep, or pig.
- (3) The fact that a registered tag is attached to any cattle is admissible in any legal proceedings and is evidence that the proprietor of the tag is the owner of the cattle.

32. Offences by bodies corporate

- (1) Where an offence against this Act is committed by a body corporate, every person concerned in the management of that body corporate shall be deemed also to have committed the offence and may be convicted

of the offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

(2) A person referred to in subsection (1) may be convicted of an offence under that subsection whether or not the body corporate is charged with or convicted of the offence.

33. Service of documents

(1) Where under this Act a notice or other document is required or authorized to be served on or given to a person, the notice or other document may, without prejudice to any other method of serving or giving the notice or other document provided by this Act, be served or given –

(a) in the case of a person who is neither a body corporate nor a firm –

(i) by delivering it to him personally;

(ii) by leaving it at that person's place of residence last known to the person required or authorized to serve the notice or other document with someone who apparently, resides there, or at that person's place of business or employment last known to the person required or authorized to serve the notice or other document with someone who is apparently employed there, being in either case a person who has or apparently has attained the age of 16 years; or

(iii) by sending it by post to that person's place of residence, business, or employment last known to the person required or authorized to serve the notice or other document;

(b) in the case of a body corporate –

(i) by delivering it to the secretary of the body corporate personally;

(ii) by leaving it at the registered office of the body corporate or at the place or principal place of business of the body corporate in Tasmania with a person apparently employed there, being a person who has or apparently has attained the age of 16 years; or

(iii) by sending it by post to the registered office of the body corporate or to the place or principal place of business of the body corporate; or

(c) in the case of a firm –

(i) by delivering it to a member of the firm personally;

(ii) by leaving it at the place or principal place of business of the firm in Tasmania last known to the person required or authorized to serve the notice or other document with a person apparently employed there, being a person who has or apparently has attained the age of 16 years; or

(iii) by sending it by post to the place or principal place of business of the firm in Tasmania last known to the person required or authorized to serve the notice or other document.

(2) A reference in subsection (1) to the registered office of a body corporate includes a reference to a registered office that is outside Tasmania.

(3) The provisions of this section are in addition to the provisions of sections 109X and 601CX of the Corporations Act.

33A. Delegation

The Registrar may delegate any of his or her functions or powers under this Act other than this power of delegation.

34. Regulations

(1) The Governor may make regulations for the purposes of this Act.

(2) In addition to the regulations authorized to be made by any other provision of this Act and without limiting subsection (1), regulations may be made for or with respect to –

(a) the construction and use of branding instruments;

- (b) the use of registered brands and registered tags, including prescribing the part of the body of any cattle or sheep on which a registered brand shall be branded and the part of the body of any cattle to which a registered tag shall be tagged;
- (c)
- (d) requiring the keeping of books and records relating to animals and the carcasses of animals by the persons specified in the regulations;
- (da) requiring declarations, books and records relating to animals and carcasses of animals to be transported with those animals and carcasses;
- (e) prescribing the cases in which a person prescribed in the regulations may require the person in charge of –
 - (i) any animals to brand them, or to cause them to be branded, for the purposes of their identification, and prescribing the manner in which animals are to be branded in those cases and the nature, design, and dimensions of the brands required to be used in those cases; or
 - (ii) any animals to tag them, or to cause them to be tagged, for the purposes of their identification, and prescribing the manner in which animals are to be tagged in those cases and the nature, design, and dimensions of the tags required to be used in those cases; and
- (f) such other matters as may be necessary or convenient for carrying out or giving effect to this Act.

(2A) Without limiting the generality of subsection (1) , the regulations may –

- (a) provide for any matter concerning the attachment of or insertion in, or the removal from, an animal of a permanent identification device; and
- (b) provide for any other matter related to the use, manufacture, sale, distribution or disposal of permanent identification devices; and
- (c) require the keeping of a Register of Permanent Identification Devices; and
- (d) require the Registrar to contribute data to a national database relating to the use, manufacture, sale, distribution or disposal of permanent identification devices.

(2B) The regulations may adopt wholly or in part, with or without modification and specifically or by reference any published standards, rules, codes or specifications, whether the standards, rules, codes or specifications are published before or after the commencement of this Act.

(3) Regulations under this section may be made subject to such conditions, or be made so as to apply differently according to such factors, as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance or otherwise, as may be so specified.

(4) Regulations under this section may provide that it is an offence, punishable on summary conviction, for a person to contravene or fail to comply with any of the regulations and may provide in respect of any such offence for the imposition of a fine not exceeding 5 penalty units and, in the case of a continuing offence, a further fine not exceeding 0·1 penalty unit for each day during which the offence continues.

(5) A regulation under this section may authorize any matter or thing to be from time to time determined, applied, or regulated by any person specified in the regulation.

35. Transitional provisions

The provisions set out in Schedule 1 have effect.

SCHEDULE 1 - Transitional Provisions

Section 35

1. Interpretation

In this Schedule, *proclaimed day* means the day fixed by proclamation under section 2 (2) .

2. Registrar of Stock Brands and other officers

(1) The person who, immediately before the proclaimed day, holds office as the Registrar of Stock Brands under the Stock Act 1932 shall, on that day, be deemed to have been appointed as the Registrar of Stock Brands under section 5 (1) of this Act.

(2)

3. Register

The Register of Stock Brands kept under section 23 of the Stock Act 1932 , shall, on and after the proclaimed day, be deemed to be the register required to be kept under section 6 of this Act.

4. Directory

The brands directory kept under section 24 of the Stock Act 1932 shall, on and after the proclaimed day, be deemed to be the directory required to be kept under section 7 of this Act.

5. Brands

Where a person is, immediately before the proclaimed day, the registered owner of a brand registered under Part VII of the Stock Act 1932 –

(a) that brand shall, on and after that day, be deemed, for the purposes of this Act, to be a brand registered under this Act; and

(b) that person shall, on and after that day, be deemed, for the purposes of this Act, to be the proprietor of that brand.

6. Notices of mustering

A notice in force under section 31 of the Stock Act 1932 immediately before the proclaimed day shall be deemed, on and after that day, to be a notice under section 30 (2) of this Act.

7. Regulations of a savings or transitional nature

(1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision made under subclause (1) may take effect as from the proclaimed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its notification in the *Gazette*, the provision does not operate so as –

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its notification in the *Gazette*; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its notification in the *Gazette*.

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule.

