
THE ANIMAL IDENTIFICATION ACT, 2010

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GOVERNMENT OF ZAMBIA

ACT

No. 28 of 2010

Date of Assent: 14th August, 2010

An Act to provide for the registration of animal identification marks and marking operators; provide for the appointment of the Registrar of Animal Identification; to repeal and replace the Brands Act, 1913; and provide for matters connected with, or incidental to, the foregoing.

[16th August, 2010]

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Animal Identification Act, 2010. Short title
2. In this Act, unless the context otherwise requires— Interpretation
 - “animal” means any animal declared by the Minister in terms of section *three*;
 - “animal identification” means a method of identifying an animal using methods approved by the Registrar;
 - “carcass” means the carcass of an animal, and includes part of a carcass, and the meat, bone, hide, skin, feather, hoof, horn, offal or other part of an animal;
 - “certificate of registration” means the certificate of registration of an identification mark issued under section *seven*;
 - “Deputy Registrar” means the person appointed as Deputy Registrar of Animal Identification under section *four*;
 - “identification mark” means an identification mark registered under section *seven* for the purpose of identifying the animal, but does not include any—

- (a) mark made or placed on the horn or hoof;
- (b) mark made with paint on an animal;
- (c) clasp, rivet or tag attached to the ear, or a mark made on such clasp, rivet or tag; or
- (d) notch or hole;

“mark” means to place or collect an identification mark on an animal;

“marking instrument” means an instrument used or intended to be used for marking animals;

“proprietor” means the registered proprietor of an identification mark;

“Register” means the Register referred to under section *fourteen*; and

“Registrar” means the person appointed as the Registrar of Animal Identification under section *four*.

Application
of Act

3. This Act applies in respect of animals declared by the Minister by notice in the *Gazette*.

PART II

ADMINISTRATION

Appointment
of Registrar
of Animal
Identification
and other
staff

4. The Public Service Commission shall appoint, as public officers, a Registrar of Animal Identification, Deputy Registrars of Animal Identification and such other staff within the Ministry responsible for livestock development, as shall be necessary for the proper administration of this Act.

Powers of
Registrar

5. (1) The Registrar may, on the authority of a warrant issued under subsection (2), conduct an investigation to determine whether the provisions of this Act are being or have been complied with, and may, for that purpose during normal office hours and without giving prior notice

- (a) enter upon any place, premises or conveyance in, or upon, which the Registrar has reasonable grounds to believe is placed or is being kept any animal, carcass or hide of any animal, marking instrument, certificate or document, or register of marking operators in respect of which this Act applies;
- (b) clip or otherwise remove hair from any animal, carcass or hide in order to facilitate examination for animal identification; and
- (c) seize any animal or object in respect of which the Registrar has reasonable grounds to believe that this Act has been contravened.

(2) A warrant referred to in subsection (1) shall be issued by a magistrate who has jurisdiction in the area in which the place or facility in question is situated, if it appears from information on oath that there are reasonable grounds to believe that any material, substance, appliance, book, statement or document that may relate to a contravention of this Act is in or upon such place or facility.

(3) Where no criminal proceedings are instituted in connection with any item seized under subsection (1), or if it appears that such item is not required at any trial for the purpose of evidence or an order of court, the Registrar shall return that item as soon as possible to the person from whom it was seized.

(4) After the conclusion of criminal proceedings, an item seized pursuant to subsection (1) and which served as an exhibit in proceedings in which a person was convicted, shall be handed over to the Registrar to be destroyed or otherwise dealt with as instructed by the Registrar.

(5) The Registrar may delegate to an officer any of the powers of the Registrar under this section.

(6) A person who—

- (a) delays or obstructs the Registrar in the exercise of the Registrar's powers;
- (b) refuses to give the Registrar such reasonable assistance as the Registrar may require for the purpose of exercising the Registrar's powers; or
- (c) gives the Registrar false or misleading information in answer to an inquiry made by the Registrar;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

PART III

REGISTRATION

6. (1) An owner of an animal shall mark an animal with an identification mark in accordance with the provisions of this Act.

Compulsory
animal
identification

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding sixty thousand penalty units or to imprisonment for a period not exceeding six months, or to both.

7. (1) An owner of an animal shall apply for the registration of an identification mark to the Registrar in the prescribed manner and form upon payment of the prescribed fee.

Application
for
registration
of
identification
mark

(2) The Registrar shall, where an application for the registration of an identification mark complies with the requirement of this Act—

(a) register and allocate the identification mark to the applicant; and

(b) issue the applicant with a certificate of registration of the identification mark in the prescribed form.

(3) The Registrar shall, where the Registrar rejects an application for registration of an identification mark, inform the applicant accordingly and give the reasons therefor.

(4) A certificate of registration shall be *prima facie* evidence that the person in whose name the identification mark is registered has, during the period shown in the certificate, the exclusive right to the use and benefit of the identification mark.

Prescribed
identification
marks

8. Notwithstanding section *seven* the Minister may, by statutory instrument, prescribe the identification marks in respect of each group of animals to which marks may be allocated under section *seven*.

Validity of
identification
mark

9. An identification mark is valid for a period of five years from the date of its allocation.

Renewal of
identification
mark

10. (1) A proprietor of an identification mark may, three months before the expiry of the validity of the identification mark, apply to the Registrar for the renewal of the identification mark in the prescribed manner and form.

(2) The Registrar shall, upon receipt of an application under subsection (1) and where the application meets such requirements as may be prescribed, renew the identification mark.

Duties of
owners of
animals

11. (1) An owner of an animal shall —

(a) apply for the registration of an identification mark under section *six*;

(b) mark the animal in the prescribed manner;

(c) where an identification mark on an animal is invisible or indistinct, mark the animal clearly with that person's identification mark; and

(d) notify the Registrar in writing of any changes of that person's address.

(2) A person shall not sell, barter, give away or in any other manner, dispose of an animal unless—

(a) such animal has been marked in the prescribed manner with the identification mark of the person disposing of that animal; and

(b) that person furnishes the Registrar with details of the transfer of the animal.

(3) A person acquiring an animal from a person disposing of an animal under subsection (2) shall retain the document of transfer obtained from that person for a period of one year.

12. An owner of an animal with an identification mark registered under this Act, may apply to the Registrar for the transfer of the identification mark to another person in the prescribed manner and form upon payment of the prescribed fee.

Transfer of
identification
mark

13. (1) An owner of an identification mark may surrender the identification mark and the Registrar may, upon receipt of a notice thereof, cancel the certificate of registration of the identification mark.

Cancellation
of certificate
of
registration
of
identification
mark

(2) The Registrar shall cancel the certificate of registration of an identification mark issued under this Act if—

- (a) the holder of the certificate of registration obtained the certificate through fraud, misrepresentation or concealment of a material fact;
- (b) the validity of the certificate of registration expires; or
- (c) the holder of the certificate of registration commits an offence under this Act or any other law.

14. (1) A person who wishes to mark animals, other than that person's animals, for financial gain shall apply to the Registrar for registration as a marking operator in the prescribed manner and form upon payment of the prescribed fee.

Registration
of marking
operators

(2) The Registrar shall, where an application complies with the requirements of this Act, register the applicant as a marking operator.

(3) A marking operator shall maintain and keep a register of animals marked by the marking operator in the prescribed manner and form.

(4) The Registrar shall, where the Registrar rejects an application for registration as a marking operator, inform the applicant accordingly and give the reasons therefor.

15. (1) The Registrar shall keep and maintain a Register of all identification marks and marking operators registered under this Act.

Register

(2) The Register shall be kept in the custody of the Registrar and shall be open for inspection by members of the public during normal office hours.

16. (1) The Registrar shall cause copies of the Register and any alterations thereof, or additions thereto, to be printed and published in a daily newspaper of general circulation in Zambia.

Publication
of copies of
Register

(2) Subject to this Act, a copy of the last published and printed Register shall be evidence admissible in all legal proceedings of what is contained in that Register and the absence of an identification mark from that copy, shall be *prima facie* evidence that the identification mark is not registered.

Use of
identification
mark by
unauthorised
person

17. A person, not being the registered proprietor of an identification mark and not acting with the authority of such proprietor, who imposes or causes to be imposed upon an animal, the registered identification mark or an unregistered identification mark commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

Offences
related to
marking of
animals

18. (1) A person who—

- (a) marks or allows an animal to be marked with a mark which is not an identification mark registered under this Act;
- (b) marks or allows an animal to be marked with an identification mark without the authorisation of the owner of such identification mark;
- (c) marks or allows an animal to be marked with an identification mark otherwise than in the prescribed manner;
- (d) marks or allows an animal to be marked with an identification mark which is registered in the name of a person who is not the owner of the animal;
- (e) marks or allows an animal to be marked with an identification mark which is not a prescribed identification mark in respect of the group to which the animal belongs; or
- (f) uses more than one identification mark in respect of the same group of animals, unless the registration of all the identification marks was obtained under this Act;

commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

(2) A person who—

- (a) is a marking operator and fails to keep a register in terms of this Act;
- (b) has in that person's possession an animal that is not marked in accordance with, or in a manner allowed by, this Act;
- (c) alters, mutilates or cancels an identification mark on an animal;

- (d) sells to any person an animal on which an identification mark has been altered, mutilated or cancelled;
- (e) hinders or obstructs an officer or police officer in the execution of the officer's or police officer's duties or powers under this Act;
- (f) fails or refuses to produce, when required under this Act by the Registrar or a police officer to do so, any animal or other thing in that person's possession or under that person's control;
- (g) alters a certificate of registration issued under this Act;
- (h) fails to comply with, or contravenes, any provision of this Act;
- (i) in any application made in terms of this Act, makes or causes to be made a statement which is false;
- (j) falsely holds oneself out to be the Registrar or an officer approved under this Act; or
- (k) marks animals for financial gain without being registered as a marking operator;

commits an offence and is liable, upon conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

19. (1) A person who is aggrieved with a decision of the Registrar under this Act may, within thirty days of receiving the decision, appeal to the Minister.

Appeals

(2) A person who is aggrieved with a decision of the Minister under subsection (1) may, within thirty days of receiving the decision, appeal to the High Court.

PART IV

GENERAL PROVISIONS

20. In any legal proceedings a certificate or computer printout purporting to have been issued by the Registrar regarding the registration, or the transfer or cancellation of the registration, of an identification mark under this Act, or the ownership of an identification mark, or any other particulars contained in the Register, shall upon production in such proceedings be *prima facie* evidence of the facts stated in it.

Evidence

21. On the trial of a person who is apprehended in possession of an animal marked with a registered identification mark, a carcass or parts of a carcass without any identification and upon proof being given of the ownership of such animal and that a theft thereof has been committed, the onus of proof that such animal was lawfully or innocently in that person's possession shall rest upon the accused person.

Burden of proof

Regulations

22. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations made pursuant to that subsection may provide for—

- (a) the forms in which applications for and certificates of registration shall be made;
- (b) the form and manner of giving any notice required by this Act;
- (c) the form in which any transfer of the right to any registered identification mark shall be effected;
- (d) the size, shape, pattern and composition of identification marks;
- (e) the size, shape and construction of marking instruments;
- (f) the age which animals should have attained before they are marked;
- (g) the manner in which, the parts on which and the material with which animals shall or may not be marked;
- (h) the conditions on which an owner of animals may obtain the registration of more than one identification mark in respect of the same group of animals;
- (i) the fees to be paid under the provisions of this Act;
- (j) the system and procedure to be observed by the Registrar in allocating identification marks; and
- (k) anything which may be required for the better carrying into effect of the provisions of this Act.

(2) The Minister may make different regulations in respect of different kinds of identification marks, different groups of animals and different areas.

(3) Such regulations may impose a penalty not exceeding two hundred thousand penalty units for any breach thereof or, in default of payment of such fine, imprisonment for a period not exceeding two years.

Repeal of
Act No. 12
of 1913

23. The Brands Act, 1913, is hereby repealed.

Transitional
provisions in
relation to
existing
certificates
of
registration

24. (1) A person who holds a certificate of registration issued under the repealed Act shall, within a period of one year from the commencement of this Act, apply to the Director for a certificate of registration of an identification mark, in accordance with the provisions of this Act.

(2) For the avoidance of doubt, all certificates of registration issued under the repealed Act shall cease to be valid one year after the commencement of this Act.