

CHAPTER 36:02
BRANDING OF CATTLE

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Act 34, 1973,
Act 34, 1977,
Act 44, 1977,
Act 10, 1978,
S.I. 14, 1978,
Act 6, 1986.

An Act to make further and better provision for the branding of cattle and for matters incidental thereto.

[Date of Commencement: 1st January, 1962]

PART I
Preliminary (ss 1-2)

1. Short title

This Act may be cited as the Branding of Cattle Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"AC brand" means any letter, character, sign or symbol or any combination thereof used or intended to be used for the marking of cattle to indicate that such cattle are pledged as security under the Agricultural Charges Act or the Hypothecation Act;

"Accountant General" means the person holding office as Accountant-General in the public service of Botswana;

"authorized creditor" means an authorized creditor as defined in the Hypothecation Act;

"brand", as a noun, means any letter, character, sign or symbol or any combination thereof used or intended to be used for the marking of cattle; but does not include a distinctive mark, or an AC brand;

"brand", as a verb, means to burn, cut, imprint or in any way mark a brand on to cattle;

"brand directory" means the directory of brands or any revised edition thereof or supplement thereto prepared in pursuance of section 18;

"brand register" means the register kept under section 12;

"branding iron" means any instrument or tool by which any brand can be branded on cattle;

"cattle" means any bull, cow or ox, or any heifer or calf which has been weaned;

"distinctive mark" means a cheekmark, hornmark, hoofmark or earmark, or any clasp, rivet or tag attached to an ear, and includes any other mark which the President may, by regulations, made under section 29, add to this definition;

"legal representative", in relation to a person who is dead, means the person who in law or in customary law, whichever may be applicable, represents the estate of that person;

"registered brand" means a brand registered under this Act;

"Registrar" means the Registrar of Brands appointed under section 11;

"zonal branding area" means one of the areas prescribed under section 3;

"zonal symbol" means one of the brands prescribed under section 3;

PART II

Zonal Branding (ss 3-10)

3. Zonal branding areas

The President may from time to time by order published in the *Gazette* prescribe areas in Botswana to be zonal branding areas and shall in respect of each zonal branding area prescribe a letter of the alphabet to be the zonal symbol for that area:

Provided that-

- (i) the aggregate of the several zonal branding areas shall at all times be the whole of Botswana; and
- (ii) no such order shall be brought into operation until the expiration of six months after the publication of the order in the *Gazette*.

4. All cattle to be branded with zonal symbol

(1) Every owner of cattle shall cause the same to be and remain legibly branded with the zonal symbol for the zonal branding area in which they are kept:

Provided that nothing in this subsection shall apply in respect of cattle which have been removed from one zonal branding area into another, until the expiration of the lesser of the periods referred to in section 5(2).

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding P200 or to imprisonment for a term not exceeding six months, or to both.

5. Branding of cattle removed into another zonal branding area

(1) In this section, "authorized officer" means an officer of the Veterinary Department authorized by the President by order published in the *Gazette* to issue directions under this section and any such authorization may be of named persons or may be *ex officio*.

(2) Where cattle have been removed from one zonal branding area into another zonal branding area, the owner thereof shall, within one month of the arrival of the cattle within the zonal branding area to which they have been removed, or within such lesser period thereof as an authorized officer may direct in writing, cause the same to be legibly branded with the zonal symbol for the zonal branding area to which they have been removed.

(3) In calculating the period which cattle have spent in any zonal branding area for the purposes of subsection (2), no regard shall be had to time spent in a quarantine camp under the control of the Veterinary Department.

(4) Any person who contravenes the provisions of subsection (2) shall be guilty of an offence and liable to a fine not exceeding P200 or to imprisonment for a term not exceeding six months, or to both.

6. Manner of branding zonal symbol

(1) Every zonal symbol shall be branded on cattle as follows-

- (a) the first symbol shall be imprinted on the left side of the neck and shall be as near the angle of the jaw as possible;
- (b) subsequent symbols shall be placed along a line drawn from the angle of the jaw to the point of the shoulder;
- (c) each symbol shall be placed as close as possible to the symbol immediately preceding it; and
- (d) when there is insufficient space for further symbols on the left side of the neck, symbols shall be placed, *mutatis mutandis*, on the right side of the neck.

(2) Any person who brands cattle with a zonal symbol and who wilfully fails to comply with the provisions of this section shall be guilty of an offence and liable to a fine not exceeding P50, or, in default of payment thereof, to imprisonment for a term not exceeding one month.

7. Penalty for applying incorrect zonal symbol

Any person who in any zonal branding area brands cattle with the zonal symbol for any other zonal branding area, shall be guilty of an offence and liable to a fine not exceeding P600 or to imprisonment for a term not exceeding two years, or to both.

8. Penalty for defacing or altering zonal symbol

Any person who, without lawful cause or excuse, blotches, defaces or otherwise renders

illegible or in any way alters any zonal symbol branded on cattle, shall be guilty of an offence and liable to a fine not exceeding P1200 or to imprisonment for a term not exceeding four years, or to both.

9. Penalty for unauthorized application of zonal symbol to another person's cattle

Any person who, without lawful cause or excuse, brands any cattle of which he is not the owner with a zonal symbol without the authority of the owner of such cattle shall be guilty of an offence and liable to a fine not exceeding P600, or to imprisonment for a term not exceeding two years, or to both.

10. Presumption as to removal of cattle branded with zonal symbol

Whenever in any proceedings against any person it is alleged that any cattle were removed from any place (hereinafter referred to as the "former place") to a place (hereinafter referred to as the "latter place") situate in a different zonal branding area to the former place, if it is proved that the cattle were at the latter place and were branded with the zonal symbol for the zonal branding area in which the former place is situate (whether or not the cattle were branded with any other zonal symbol), it shall be presumed that the cattle were removed from the former place to the latter place, unless the contrary is proved.

PART III

Registration of Brands (ss 11-26)

11. Appointment of Registrar and Assistant Registrar

The President shall appoint an officer of the public service to be Registrar of Brands and may appoint an officer of the public service to be Assistant Registrar of Brands who, subject to the directions of the Registrar, shall have the power to do any act or thing which may lawfully be done under this Act by the Registrar.

12. Register of brands

The Registrar shall keep a register of all brands and the proprietors thereof registered under the provisions of this Act.

13. Form of brands to be registered under this Act

(1) Every brand, other than an AC brand, registered under this Act shall consist of three characters of which-

- (a) two shall be letters and one a numeral; or
- (b) two shall be numerals and one a letter; or
- (c) all three shall be letters,

and shall be in the form of a horizontal line, a vertical line, a pyramid or an inverted pyramid.

(2) Every AC brand registered under this Act shall consist of the letters "A" and "C" and two numerals, and shall be in the form of a diamond.

(3) No brand shall be registered under this Act which is identical with a registered brand or which, in the opinion of the Registrar, so nearly resembles a registered brand as to be likely to mislead.

(4) Notwithstanding anything in subsection (1), if the President is satisfied that additional brands, other than an AC brand, are required, he may, by statutory instrument, make an order to authorise the registration of such additional composition and forms of brands as may be prescribed by the President under this section.

14. Registration of brand

(1) A person requiring a brand shall make application to the Registrar stating particulars of the brand required and such other particulars as may be prescribed.

(2) No person other than an authorized creditor may make application for the registration of an AC brand.

(3) Subject to the provisions of section 13, the Registrar, on payment of the prescribed fee, shall register the particular brand applied for or if it is already a registered brand shall register a brand which is not a registered brand, and shall register the applicant as proprietor of such brand and thereupon the brand so registered shall be the brand of the applicant and the Registrar shall issue him with a certificate to that effect in such form as the Accountant-General may determine.

15. Removal of illegal brands from register

If through inadvertence or otherwise a registered brand does not comply with the provisions of section 13(2) or (3), the Registrar, after giving to the proprietor an opportunity to be heard, shall-

- (a) cancel the registration of the brand, whereupon all the proprietor's rights in or to that brand shall cease; and
- (b) register another brand in the name of the proprietor in accordance with the provisions of section 14(3) but without payment of fee.

16. Brand to lapse after 10 years unless renewed

Subject to any directions to the contrary given by the Minister either generally or in any specific case, all rights in or to any brand registered under section 14 or 15 or renewed under section 17 shall lapse and the Registrar shall cancel the registration thereof on the expiration of 10 years from the date of such registration or renewal or the date of any transfer thereof under section 20, whichever be the later, unless the registration has been renewed or further renewed, as the case may be, in accordance with the provisions of section 17.

17. Renewal of registration of brand

The proprietor of any registered brand may at any time within 12 months of the date on which the registration is due to lapse apply to the Registrar for the renewal or further renewal, as the case may be, of the registration and the Registrar, on payment of the prescribed fee, shall thereupon renew the registration of the brand and shall issue the proprietor with a certificate to that effect in such form as the Accountant-General may prescribe.

18. Brand directory

(1) As soon as possible after the commencement of this Act, the Registrar shall cause to be prepared a directory of registered brands other than AC brands and thereafter, as soon as possible after the 1st day of January in every succeeding year, shall cause an up-to-date revised edition of or supplement to that directory to be prepared.

(2) The Registrar shall cause to be prepared and published in the *Gazette* a directory of all registered AC brands and of any brand registered in the name of the National Development Bank on 1st January and 1st June in each year and shall cause an up-to-date directory of such brands to be prepared and published in the *Gazette*.

(3) Every directory or any revised edition or supplement thereof shall contain prescribed particulars of each registered brand included therein.

(4) Copies of every directory, revised edition or supplement thereof prepared in terms of this Act shall be on sale to members of the public at a price to be determined by the President and the fact of publication and the price per copy shall be notified in the *Gazette*.

19. Surrender of brands

The proprietor of any registered brand or, if he is dead, his legal representative, may surrender the same and the Registrar, on receipt of notice thereof, shall cancel the registration of the brand, whereupon all rights in or to that brand shall as regards that proprietor cease:

Provided that no registration of any AC brand registered in the name of an association established under the Agricultural Management Associations Act, shall be cancelled unless the notice of surrender is supported by an affidavit shown by an officer of that association that no property of the association is pledged as security whether under the Agricultural Charges Act, the Hypothecation Act or otherwise.

20. Transfer of brands

The Registrar, on application made in the prescribed form by the proprietor of a registered brand or, if he is dead, by his legal representative, and on payment of the prescribed fee, may register some other person to be proprietor of the brand and thereupon the brand shall be the brand of that other person and the Registrar shall issue him with a certificate to that effect in such form as the Accountant-General may determine:

Provided that no AC brand shall be transferred except to another authorized creditor.

21. Re-issue of brands

(1) No AC brand the registration of which has been cancelled shall be re-issued.

(2) No brand which is not an AC brand and of which the registration has been cancelled shall be re-issued until a period of 10 years has elapsed from the date of cancellation.

22. Manner of branding cattle

(1) Every registered brand other than an AC brand shall be branded on cattle as follows-

(a) the first brand shall be imprinted on the left thigh immediately above a line drawn horizontally through the stifle joint and every subsequent brand shall, where there is sufficient space for the purpose, be imprinted on the same part of the animal and immediately below the last brand;

(b) where there is not sufficient space for any subsequent brand then other parts of the animal shall be used in the order set out in the following table, each part being used until there is not sufficient space for any further brand on that part, and each second or subsequent brand on any part being imprinted immediately below the previous brand on that part-

(i) Right thigh	}	The first brand on each part shall be imprinted immediately above a line drawn horizontally through the stifle joint or point of the elbow as the case may be.
(ii) Left forearm		
(iii) Right forearm		

(2) Every registered AC brand shall be imprinted on the right forearm; the first such brand shall be imprinted immediately above a line drawn horizontally through the point of the elbow and every subsequent such brand shall be imprinted immediately below the previous AC brand:

Provided that the order in which AC brands are imprinted shall not prejudice the rights of priority as between different liens incurred whether under the Hypothecation Act, the Agricultural Charges Act or otherwise.

(3) A registered AC brand on an animal shall be cancelled by a reversed imprint of such brand placed immediately below the last AC brand imprinted on such animal.

(4) Any person who brands cattle otherwise than with a zonal symbol or who wilfully fails to comply with the provisions of this section shall be guilty of an offence and liable to a fine not exceeding P50 or, in default of payment thereof, to imprisonment for a term not exceeding one month.

(5) Notwithstanding anything in subsection (1), the President, if satisfied that in particular

circumstances the imprinting on animals of any particular class of brands additional to registered brands imprinted under the provisions of subsection (1) and zonal symbols imprinted under the provisions of section 6(1) would be warranted, may by order published in the *Gazette*, authorize the imprinting in such circumstances of such additional brands, whether registered or not, on the cheek of animals of such class.

23. Penalty for use of unregistered brand

A person who brands any cattle with a brand other than a registered brand or zonal symbol or a brand authorized under the provisions of section 22(5) shall be guilty of an offence and liable to a fine not exceeding P200 or to imprisonment for a term not exceeding six months, or to both.

24. Penalty for defacing or altering brand

Any person who, without lawful cause or excuse, blotches, defaces or otherwise renders illegible or in any way alters any registered brand branded on cattle shall be guilty of an offence and liable to a fine not exceeding P1200 or to imprisonment for a term not exceeding four years, or to both.

25. Penalty for unauthorized branding

Any person who, without lawful cause or excuse, brands any cattle of which he is not the owner with a registered brand without the authority of the owner of the cattle shall be guilty of an offence and liable to a fine not exceeding P1200 or to imprisonment for a term not exceeding four years, or to both.

26. Brand *prima facie* proof of ownership in case of stock theft

Without prejudice to any rights of the National Development Bank under the Agricultural Charges Act or of an authorized creditor or the National Development Bank under the Hypothecation Act, on the trial of any person for any offence referred to in section 6 of the Stock Theft Act in relation to any cattle or the hide of any cattle, the fact that the cattle or hide is branded with the registered brand of the person alleged to be the owner thereof shall be *prima facie* evidence that the cattle or hide is the property of such person.

PART IV ***Miscellaneous (ss 27-29)***

27. Presumption against mutilator

On the trial of any person for any offence referred to in section 6 of the Stock Theft Act in relation to any hide or cattle, the fact that the hide or cattle has been mutilated by that person in such a way that any registered brand or zonal symbol is removed or rendered illegible shall be *prima facie* evidence that that person is not the owner or person entitled to the possession of the hide or cattle.

28. Jurisdiction

Notwithstanding anything in the Magistrates' Courts Act, a magistrate's court presided over by a Magistrate Grade I or over shall have special jurisdiction to impose the maximum penalties provided for in this Act.

29. Regulations

(1) The President may by statutory instrument make such regulations as he may deem expedient to give force and effect to this Act or for its better management.

(2) Without prejudice to the generality of the provisions of subsection (1), regulations made under this section may provide for the following matters-

- (a) any matter which this Act specially provides may be prescribed;
- (b) the size, design and pattern of branding irons;
- (c) the persons by whom branding irons may be manufactured, imported or sold;
- (d) the persons who may possess branding irons.

(3) Regulations may provide that any person who contravenes any provision thereof or who fails to comply with any order, requirement or condition lawfully issued to or imposed on him by virtue of any regulation and with which it is his duty to comply shall be guilty of an offence.

(4) Regulations made under this section shall specify what penalty may be imposed for each offence thereby created and may also provide different penalties in the case of successive or continuous offences but no such penalty shall exceed a fine of P400 or imprisonment for 12 months.