

WESTERN AUSTRALIA

**STOCK (BRANDS AND
MOVEMENT) AMENDMENT
ACT 1994**

No. 46 of 1994

AN ACT to amend the *Stock (Brands and Movement) Act 1970* and for related purposes.

[Assented to 27 September 1994.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Stock (Brands and Movement) Amendment Act 1994*.

Commencement

2. This Act comes into operation on such day as is fixed by proclamation.

Principal Act

3. In this Act the *Stock (Brands and Movement) Act 1970** is referred to as the principal Act.

[* *Reprinted as at 16 July 1986.
For subsequent amendments see 1993 Index to
Legislation of Western Australia, Table 1, p. 202.*]

Section 1 amended

4. Section 1 of the principal Act is amended by deleting "*(Brands and Movement)*" and substituting the following —

“ *(Identification and Movement)* ”.

Section 5 amended

5. Section 5 of the principal Act is amended —

(a) by inserting before the definition of “brand” the following definition —

“

“**alpaca**” means any male or female alpaca;

”;

- (b) by inserting after the definition of “Breed Society” the following definitions —

“
 “buffalo” means any buffalo bull, cow, ox,
 heifer, steer or calf;

 “camelid” means any alpaca, llama or
 vicuna;
”;

- (c) by inserting after the definition of “cullmark” the following definition —

“
 “deer” means any stag, buck, hind, doe,
 spiker, fawn or rig;
”;

- (d) in the definition of “Director” by deleting “Director of Agriculture” and substituting the following —

“ Director General of Agriculture ”;

- (e) by inserting after the definition of “legible” the following definition —

“ **“llama”** means any male or female llama; ”;

- (f) by deleting the definition of “stock” and substituting the following definition —

“
 “stock” means any horse, cattle, sheep,
 swine, goat, buffalo, deer or camelid,
 or any animal prescribed to be stock
 under section 62 (1a);
”;

and

- (g) by inserting after the definition of “the repealed Act” the following definition —

“

“**vicuna**” means any male or female
vicuna;

”;

Section 6A inserted

6. After section 6 of the principal Act the following section is inserted —

“

Application

6A. If a provision of this Act refers to a proprietor of stock, and the stock referred to are expressed in the plural, the provision is to be taken as also applying to a proprietor of only one of those stock.

”.

Section 7 repealed and a section substituted

7. Section 7 of the principal Act is repealed and the following section is substituted —

“

One brand and one earmark to be allotted for each run

7. (1) Subject to subsection (2), but despite any other provision of this Act, a proprietor of stock on a run shall be allotted only one registered brand or one registered earmark, or one registered brand and one registered earmark, as the case requires, for the stock on that run.

(2) A proprietor of swine on a run shall be allotted a registered brand for swine whether or not the proprietor has been allotted a registered brand in respect of other stock on that run.

(3) If a proprietor of stock owns stock on 2 or more runs, the proprietor may be allotted a registered brand or a registered earmark, or a registered brand and a registered earmark, as each case requires, in respect of each of those runs.

”.

Section 8 amended

8. Section 8 of the principal Act is amended —

(a) in subsection (2a) —

(i) by inserting after “goats”, in the first place where it occurs, the following —

“ or camelids ”; and

(ii) by deleting “his goats” and substituting the following —

“

those goats, or camelids, that have been branded with the proprietor’s registered brand

”;

and

(b) by repealing subsection (3) and substituting the following subsections —

“

(3) In connection with the control of stock diseases or the conduct of research programmes, the Registrar may —

(a) register brands and earmarks to be used by prescribed persons,

whether or not the proprietors
of stock, in prescribed
circumstances; or

(b) by notice in the *Gazette*, exempt
specified stock, or the stock of a
specified proprietor, from the
branding and earmarking
requirements of this Act —

(i) for a specified period; or

(ii) until the exemption is
revoked by another notice
in the *Gazette*.

(4) Nothing in this section requires the
proprietor of cattle, buffalo or deer to use
both the proprietor's registered brand and
registered earmark on the cattle, buffalo or
deer.

”.

Section 9 amended

9. Section 9 (3) of the principal Act is amended —

(a) in paragraph (a) by deleting “face or”; and

(b) in paragraph (b) by deleting “a part of the body of the
sheep that is not covered by wool” and substituting
the following —

“ the prescribed part of the body of the sheep ”.

Section 10 amended

10. Section 10 (2) of the principal Act is amended by deleting “has been approved by the Australian Wool Board” and substituting the following —

“ complies with Australian Standard AS4054-1992 ”.

Section 13 amended

11. Section 13 of the principal Act is amended —

(a) in subsection (1) —

(i) by deleting “on any run” and substituting the following —

“ or buffalo, on any run, ”; and

(ii) by inserting after “cattle”, in the second place where it occurs, the following —

“ or buffalo ”;

(b) in subsection (2), by inserting after “cattle”, in each place where it occurs, the following —

“ or buffalo ”; and

(c) by deleting subsection (3) and substituting the following subsections —

“

(3) Subject to subsection (5), a registered brand for cattle or buffalo shall be applied as a firebrand or a freezebrand or in such other form as the Registrar approves.

(4) A registered earmark for cattle or buffalo shall be applied to such ear as the Registrar approves.

(5) A registered brand shall not be applied as a firebrand on the horn of cattle.

”

Section 15 amended

12. Section 15 of the principal Act is amended —

- (a) by repealing subsections (3) and (4); and
- (b) in subsection (5) by deleting “Notwithstanding subsection (3), on and after the appointed day fixed under section 21 (2a), a registered brand” and substituting the following —

“ Every brand registered under this Act ”.

Section 15A amended

13. Section 15A of the principal Act is amended by inserting after subsection (3) the following subsection —

“

(4) A registered earmark for goats shall consist of a symbol or symbols, as allotted by the Registrar, and shall be applied —

- (a) to the left ear of any female goat; and
- (b) to the right ear of any male goat,

and any other earmark required or permitted by this Act to be applied to goats shall be applied —

- (c) to the right ear of any female goat; and
- (d) to the left ear of any male goat.

”

Sections 15B and 15C inserted

14. After section 15A of the principal Act the following sections are inserted —

“

Brands and earmarks for deer

15B. (1) Every proprietor of deer on any run shall apply for and obtain a registered brand, or a registered earmark, for deer or both such a brand and earmark.

(2) A registered brand for deer shall consist of an arrangement of 2 letters and a numeral, as allotted by the Registrar, and shall be applied as a firebrand, a freezebrand, a tattoo to an ear or in such other form as the Registrar approves.

(3) A registered earmark for deer shall consist of a symbol or symbols, as allotted by the Registrar, and shall be applied —

- (a) if the deer has a registered brand applied as a tattoo to an ear, to the other ear; or
- (b) to such ear as the Registrar approves.

Brands and earmarks for camelids

15C. (1) Every proprietor of camelids on any run —

- (a) shall apply for and obtain a registered brand for camelids; and
- (b) may, in addition, apply for and obtain a registered earmark for camelids.

(2) A registered brand for camelids shall consist of an arrangement of 2 letters and a numeral, as allotted by the Registrar, and shall be —

- (a) applied in the prescribed manner as a tattoo to an ear of the camelid; or
- (b) impressed on an eartag that is of such colour or colours, type and shape as the Registrar approves.

(3) A registered earmark for camelids shall consist of a symbol or symbols, as allotted by the Registrar, and shall be applied —

- (a) to the left ear of any female camelid; and
- (b) to the right ear of any male camelid,

and any other earmark required or permitted by this Act to be applied to camelids shall be applied —

- (c) to the right ear of any female camelid; and
- (d) to the left ear of any male camelid.

”.

Section 16 amended

15. Section 16 of the principal Act is amended —

- (a) by deleting “goats, sheep or cattle” in the first place where it occurs and substituting the following —

“

goats, sheep, cattle, buffalo, deer or camelids

”;

- (b) by deleting “the goats, sheep or cattle” and substituting the following —

“ them ”;

- (c) in paragraph (a) —

- (i) by deleting “sheep or cattle” in the first place where it occurs and substituting the following —

“ sheep, cattle, buffalo or deer ”; and

- (ii) by deleting “the sheep or cattle” in both places where it occurs and substituting, in each case, the following —

“ them ”;

- (d) in paragraph (b) —

- (i) by deleting “goats or sheep” and substituting the following —

“ goats, sheep or camelids ”; and

- (ii) by deleting “goat or sheep” and substituting the following —

“ animal ”;

and

- (e) in paragraph (c) —

- (i) by deleting “cattle” in the first place where it occurs and substituting the following —

“ cattle or buffalo ”; and

- (ii) by deleting “that ear of cattle” and substituting the following —

“ the ear ”.

Section 17 amended

16. Section 17 of the principal Act is amended —

- (a) in subsection (1) by deleting “horse brand and every cattle brand on an animal” and substituting the following —

“
registered brand on cattle, buffalo, horses
or deer
”;

- (b) in subsection (2) by deleting “cattle” and substituting the following —

“ cattle, buffalo or deer ”;

- (c) in subsection (3) by deleting “goat or sheep” and substituting the following —

“ goat, sheep or camelid ”; and

- (d) in subsection (4) by deleting “sheep or cattle” and substituting the following —

“ sheep, cattle, buffalo, deer or camelids ”.

Section 18 amended

17. Section 18 (1) (e) of the principal Act is amended —

- (a) by inserting before “remove” the following —

“ subject to section 36 (2), ”; and

- (b) by deleting “sheep or goat” and substituting the following —

“ goat, sheep or camelid ”.

Section 19 amended

18. Section 19 of the principal Act is amended by deleting “cattle and sheep” and substituting the following —

“ sheep, cattle, buffalo, deer and camelids ”.

Section 20 amended

19. Section 20 (4) of the principal Act is repealed and the following subsection is substituted —

“

(4) If a person applies to the Registrar in the form approved by the Registrar, the Registrar shall provide to that person —

- (a) any information in the register concerning any registered brand; or
- (b) on payment of the fee prescribed for the type of copy or extract required, a copy of, or an extract from, the register.

”.

Section 21 amended

20. Section 21 of the principal Act is amended by repealing subsections (2a), (2b), (2c), (2d) and (2e).

Section 23 amended

21. Section 23 (2) of the principal Act is repealed and the following subsection is substituted —

“

(2) If an application is made to the Registrar in the form approved by the Registrar —

- (a) by the person in whose name the original certificate was issued; and
- (b) accompanied by the prescribed fee,

the Registrar shall issue to the person a duplicate certificate.

”

Section 24 inserted

22. After section 23 of the principal Act the following section is inserted —

“

Expiry of registration of ownership of brands

24. The registration of the ownership of a brand under section 21, or the re-registration of the ownership of a brand under section 28 (2), expires 5 years after the date of registration or re-registration, as the case may be, unless the registration or re-registration has been re-registered or cancelled before then.

”

Section 25 amended

23. Section 25 of the principal Act is amended —

- (a) in subsection (1) by deleting “, in the presence of a justice,”; and

- (b) by inserting after subsection (2) the following subsection —

“

(3) A person shall sign the memorandum referred to in subsection (1) in the presence of a justice who shall also sign the memorandum to attest that person's signature.

”

Section 28 amended

24. Section 28 of the principal Act is amended —

- (a) in subsection (1) (a) —

- (i) by inserting after “applies” the following —

“ in writing ”; and

- (ii) by inserting after “Registrar” the following —

“ in writing ”;

and

- (b) by repealing subsections (2) and (3) and substituting the following subsections —

“

(2) Re-registration of the ownership of brands may be applied for and effected in the prescribed manner and on payment of the prescribed fee for the brand (or brands) shown in the register as used by an owner on the owner's run (or runs).

(3) Subject to section 7 (2), the Registrar shall not re-register the ownership of a brand that is used on a run to a person who is the owner of another registered brand that is, or other registered brands that are, used on that run.

(4) When the registration of the ownership of a brand —

(a) is cancelled under subsection (1);
or

(b) expires under section 24, not
having been re-registered under
subsection (2),

the brand is to be regarded as an
unallotted brand until re-allotted under
section 21.

”.

Section 30 amended

25. Section 30 of the principal Act is amended —

(a) in subsection (1) —

(i) by deleting “horses and cattle” and substituting
the following —

“ cattle, buffalo, horses and deer ”; and

(ii) in paragraph (a) by deleting “Land Division” in
both places where it occurs and substituting, in
each case, the following —

“ Division ”;

- (b) by repealing subsection (2) and substituting the following subsection —

“

(2) Nothing in subsection (1) requires —

- (a) a cattle calf under the age of 2 weeks to be branded or earmarked before it is removed from the run for the purpose of sale if, when it is so removed —
- (i) a certificate of registration as dairy produce premises has been issued under the *Dairy Industry Act 1973* in respect of the run; and
- (ii) the prescribed details of identification of the calf appear on an appropriate waybill;

or

- (b) a cattle calf (other than a calf referred to in paragraph (a)), or a foal, under the age of 6 months to be branded or earmarked before it is removed from the run for the purpose of sale if, when it is so removed —
- (i) it is accompanied by, and it is to be sold with, its mother; and
- (ii) the prescribed details of identification of the calf or foal appear on an appropriate waybill.

”;

- (c) in subsection (3) by deleting “if cattle are” and substituting the following —

“ buffalo or deer, if the animal is ”; and

- (d) in subsection (4) —

- (i) by deleting “stud cattle” in both places where it occurs and substituting, in each case, the following —

“ stud cattle or stud deer ”; and

- (ii) by deleting “cattle” in the second, third, fourth and fifth places where it occurs and substituting, in each case, the following —

“ cattle or deer ”.

Section 33 amended

26. Section 33 of the principal Act is amended —

- (a) in subsection (1) —

- (i) by inserting after “goats” the following —

“ or camelids, ”;

- (ii) by inserting a comma after “30 (1) (a)”; and

- (iii) by inserting after “goat” the following —

“ or camelid ”;

- (b) in subsection (2) by inserting after “goat” the following —

“ or camelid ”; and

- (c) in subsection (3) —
- (i) by inserting after “stud goat” the following —
- “ or stud camelid ”;
- (ii) in paragraph (a) by inserting after “goat” the following —
- “ or camelid ”; and
- (iii) by deleting “goat is” and substituting the following —
- “ goat or camelid is ”.

Section 34 amended

27. Section 34 (2) of the principal Act is amended by deleting “sheep or cattle” and substituting the following —

“ sheep, cattle, buffalo, deer or camelid ”.

Sections 36A and 36B inserted

28. After section 36 of the principal Act the following sections are inserted —

“

Identification exemption certificate for stock to be exported

36A. (1) If the Registrar receives an application, in the form approved by the Registrar, from the proprietor of stock that are to be exported from Australia, the Registrar may issue to the proprietor an identification exemption certificate.

(2) An identification exemption certificate —

- (a) exempts the stock specified in the certificate from the branding and earmarking requirements of this Act while the stock are on the proprietor's run; and
- (b) expires 12 months after the date of issue.

(3) If the stock specified in an identification certificate have not been exported at the time the certificate expires, the proprietor shall brand, earmark or otherwise identify the stock in accordance with this Act unless the Registrar has issued another certificate under subsection (1) in respect of the stock.

Stock are not branded unless brand appears where prescribed

36B. If a brand does not appear on prescribed stock on the place on the animal prescribed as the place where the brand is to appear, the animal is to be regarded as not having been branded.

”.

Section 37 amended

29. Section 37 of the principal Act is amended —

(a) in subsection (3) —

- (i) in paragraph (d) by deleting “sheep” and substituting the following —

“ stock ”; and

- (ii) by inserting after paragraph (f) the following paragraphs —

“

(fa) require the proprietor of any stock, that are not on the proprietor's run and are not branded, earmarked or otherwise identified in accordance with this Act, to brand, earmark or otherwise identify the stock in accordance with this Act;

(fb) require the proprietor of any stock or the person who is, or appears to be, in charge or control of any stock, that are not on the proprietor's run and are not branded, earmarked or otherwise identified in accordance with this Act —

(i) to return the stock to the proprietor's run, at the proprietor's expense; or

(ii) if the stock are not, in the opinion of the Inspector or Police officer, in a fit condition to be returned to the proprietor's run, to have the stock transported, at the proprietor's expense, to an abattoir for slaughter, or to any other location as the Inspector or Police officer directs;

”;

and

- (b) by inserting after subsection (3) the following subsection —

“

(4) Any cost incurred by a person, other than the proprietor of the stock, in transporting the stock under subsection (3) (fb) is a debt due by the proprietor to the person and is recoverable in a court of competent jurisdiction.

”.

Section 38 amended

- 30.** Section 38 of the principal Act is amended by inserting after paragraph (a) the following paragraph —

“

- (aa) if required under this Act to give any information to an Inspector or Police officer, makes a statement that the person knows to be false or misleading in a material particular;

”.

Section 47 amended

- 31.** Section 47 of the principal Act is amended —

- (a) by deleting “the waybill which relates” and substituting the following —

“ any documents that relate ”; and

- (b) by deleting “in the waybill” and substituting the following —

“ in any of those documents ”.

Sections 49A and 49B inserted

32. After section 49 of the principal Act the following sections are inserted —

“

Transport of stock to be exported

49A. (1) The proprietor of stock that are specified in an identification exemption certificate issued under section 36A —

- (a) who obtains a movement permit in respect of the transport of the stock; and
- (b) who provides to the drover or carrier of the stock the permit, a copy of the permit or a written statement, signed by the proprietor, of the number and date of issue of the permit,

is not required to brand, earmark or otherwise identify the stock in accordance with this Act if —

- (aa) the stock are being transported from the proprietor's run direct to a feedlot or to a ship for the purpose of being exported from Australia to a prescribed country; or
- (bb) having been rejected for export to a prescribed country, they are being transported to an abattoir for slaughter or back to the proprietor's run.

(2) Subsection (1) does not apply to stock that are being transported to a location to be sold before being transported to a feedlot or to a ship to be exported.

(3) A movement permit referred to in this section and section 49B may be applied for, issued and cancelled as if it were a special permit under section 49.

Transport of feral horses to slaughter

49B. (1) Subject to subsection (2), the proprietor of feral horses that have been mustered on the proprietor's run —

- (a) who obtains a movement permit in respect of the transport of the horses; and
- (b) who provides to the drover or carrier of the horses the permit, a copy of the permit or a written statement, signed by the proprietor, of the number and date of issue of the permit,

is not required to brand or otherwise identify the horses in accordance with this Act if they are transported, within 30 days after having been mustered, direct to an abattoir for slaughter.

(2) Subsection (1) does not apply to feral horses on a run that is within the South-West Division of the State, as defined by section 28 of the *Land Act 1933*.

”

Section 50 amended

33. Section 50 of the principal Act is amended —

- (a) in subsection (1) by inserting after “section 46” the following —

“

or the permit, a copy of the permit or a written statement, signed by the proprietor of the stock, of the number and date of issue of the permit for the stock under section 49, 49A or 49B

and

”;

- (b) in subsection (2) (a) by deleting “permit under section 49 for the stock” and substituting the following —

“

permit, a copy of the permit or a written statement, signed by the proprietor of the stock, of the number and date of issue of the permit for the stock under section 49, 49A or 49B

”.

Section 53 amended

- 34.** Section 53 (2) of the principal Act is amended —

- (a) by deleting “any goat or sheep” and substituting the following —

“ any goat, sheep, deer or camelid ”;

- (b) by deleting “the goat or sheep” and substituting the following —

“ the animal ”; and

- (c) by deleting “a goat or sheep” and substituting the following —

“ an animal ”.

Section 54 amended

- 35.** Section 54 (1) of the principal Act is amended —

- (a) in paragraph (a) by deleting “horse or head of cattle” and substituting the following —

“ cattle, buffalo, horse or deer ”; and

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- (b) in paragraph (c) by deleting “goat or sheep” and substituting the following —

“ goat, sheep or camelid ”.

Section 59 amended

- 36.** Section 59 (1) of the principal Act is amended by deleting “for the purposes of this Act, so far as it relates to the branding of goats, sheep, cattle or horses.” and substituting the following —

“ in relation to one or more classes of stock. ”.

Section 60A inserted

- 37.** After section 60 of the principal Act the following section is inserted —

“

Prosecutions to be commenced within 3 years

60A. A prosecution for an offence under this Act may be commenced at any time within 3 years after the commission of the offence.

”.

Section 61 amended

- 38.** Section 61 of the principal Act is amended —

- (a) in paragraph (a) by deleting “\$2 000” and substituting the following —

“ \$5 000 ”; and

- (b) in paragraph (b) by deleting “6” and substituting the following —

“ 12 ”.

Section 62 amended

39. Section 62 of the principal Act is amended —

- (a) by inserting after subsection (1) the following subsection —

“

(1a) The regulations may —

- (a) prescribe any animal to be stock for the purposes of this Act; and
- (b) for each animal prescribed under paragraph (a), prescribe all matters relevant to the branding, earmarking or other identification of the animal.

”;

and

- (b) in subsection (2) by deleting “\$2 000” and substituting the following —

“ \$5 000 ”.

Various Acts amended

40. The Acts mentioned in the following Table are amended as set out in the Table.

TABLE

Short title of Act	Amendment
1. <i>Auction Sales Act 1973</i>	In section 32 (1), delete “Stock (Brands and Movement) Act 1970” and substitute the following — “ <i>Stock (Identification and Movement) Act 1970</i> ”.
2. <i>Beekeepers Act 1963</i>	In section 4, in the definition of “Registrar”, delete “ <i>Stock (Brands and Movement) Act 1970</i> ” and substitute the following — “ <i>Stock (Identification and Movement) Act 1970</i> ”.
3. <i>Pig Industry Compensation Act 1942</i>	In section 9 (6), delete “Stock (Brands and Movement) Act, 1970” and substitute the following — “ <i>Stock (Identification and Movement) Act 1970</i> ”.
4. <i>Soil and Land Conservation Act 1945</i>	In the Schedule, delete “Stock (Brands and Movement) Act 1970” and substitute the following — “ <i>Stock (Identification and Movement) Act 1970</i> ”.