

STOCK BRANDS ORDINANCE 1934.⁽¹⁾

No. 28 of 1934.

An Ordinance Relating to Brands for Stock.

BE it ordained by the Legislative Council for the Territory of New Guinea, in pursuance of the powers conferred by the *New Guinea Act 1920-1932*, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Stock Brands Ordinance* 1934.⁽¹⁾ Short title.
2. This Ordinance shall commence on a date to be fixed by the Administrator by notice in the *New Guinea Gazette*.⁽¹⁾ Commencement.
3. This Ordinance is divided into Parts, as follows:— Parts.
 - Part I.—Preliminary.
 - Part II.—Officers.
 - Part III.—Registration of Brands.
 - Part IV.—Offences.
 - Part V.—Miscellaneous.
4. In this Ordinance, unless the contrary intention appears— Definitions.

“brand” means any letter, numeral, sign, mark, or character made or impressed, or to be made or impressed, on stock, and includes an earmark;

“Brands Directory” means the Brands Directory published in pursuance of this Ordinance;

“cattle” includes buffaloes;

“crop” means to cut a straight cut taking off any portion of the ear of any stock;

(1) Particulars of this Ordinance are as follows:—

Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
8.2.1934	15.8.1934	5.8.1935 (<i>N.G. Gaz.</i> of 29.6.1935)

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- “earmark” means one or more marks or cuts made upon or out of the ear of any stock;
- “hide” means the skin taken from any kind of stock, or any portion of the skin;
- “horse” includes ass or mule;
- “Inspector” means an Inspector of Brands under this Ordinance;
- “owner”, in relation to stock, means the owner of the stock, and includes any person being the representative, agent, manager, or overseer of the owner and having the custody or control of the stock;
- “Register” means the Register of Brands kept in pursuance of this Ordinance;
- “Registrar” means the Registrar of Brands, or a Deputy Registrar of Brands, under this Ordinance;
- “Regulations” means regulations made under this Ordinance;
- “run” means any run, plantation, or place where stock are kept or depastured;
- “stock” means horses, cattle, swine, sheep, or goats of any age or sex.

PART II.—OFFICERS.

Registrar of Brands.

5. Until the Administrator otherwise directs, the Superintendent of Police shall be the Registrar of Brands.

Power to appoint officers.

6. The Administrator may appoint officers to be—
- (a) Registrar of Brands;
 - (b) Deputy Registrars of Brands; and
 - (c) Inspectors of Brands.

Ex officio Inspectors.

7. Every European member of the New Guinea Police Force shall be *ex officio* an Inspector of Brands.

Powers of entry.

8.—(1.) Every Inspector may, at all times, enter upon any land or premises and inspect any stock, hides, brands, or branding instruments thereon.

(2.) For the purpose of carrying out this section, the Inspector may muster the stock on the land or premises.

(3.) The Inspector may employ and take with him on to the land or premises all such assistance as he thinks necessary to enable him to carry out his powers under this section.

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9.—(1.) Any Inspector may enter upon any land or premises and seize—

Power to seize stock &c. in respect of which offence committed.

- (a) any stock or hide in respect of which he has reasonable ground to believe that any offence against this Ordinance or the Regulations has been or is being committed; or
- (b) any branding instrument which appears to him to be used or to be intended to be used in contravention of or for committing an offence against this Ordinance or the Regulations.

(2.) Where any stock, hides, or branding instruments seized in pursuance of this section are required for the purpose of evidence only, they may be detained in any place of security so long as is reasonably necessary for the purpose.

(3.) Stock, hides, or branding instruments seized, other than those referred to in the last preceding sub-section, shall be taken before a District Court to be dealt with according to law.

10. The owner of any stock shall—

Duty of owner to assist in inspection.

- (a) when required by an Inspector so to do, muster the stock for inspection by him;
- (b) facilitate, by all reasonable means, the inspection of the stock by any Inspector; and
- (c) produce to an Inspector, on demand, all brands and branding instruments in his possession, custody, or control.

Penalty: Fifty pounds.

PART III.—REGISTRATION OF BRANDS.

11.—(1.) Any person may make application to the Registrar for the registration of one or more brands.

Application to register brand.

(2.) Where the applicant is not the owner or holder of a run, the application must be supported by evidence, to the satisfaction of the Registrar, that the applicant is a fit and proper person to own a brand and that the circumstances are such as to render his application reasonable.

(3.) The application shall be in accordance with the prescribed form, and shall be accompanied by the prescribed fee.

12.—(1.) The Registrar shall consider each application, and may grant it, or may refuse it if he considers the brand is not in accordance with the Regulations or that by reason of its resemblance

Power to refuse registration.

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to any registered brand it would be likely to deceive, or for any other reasonable cause.

(2.) Before refusing an application, the Registrar may permit the application to be amended in any particular.

Register of
Brands.

13. The Registrar shall keep a Register of Brands in the prescribed form.

Registration
of brands.

14. A brand shall be registered in the Register in the prescribed manner.

Certificate of
registration.

15.—(1.) When a brand has been registered, the Registrar shall issue to the applicant a certificate, in accordance with the prescribed form, of the registration of the brand.

(2.) The certificate of registration of a brand shall be *prima facie* evidence of the registration of the brand and that the person named therein is the owner of the brand.

Registered
owner of brand.

16. The person whose name appears in the Register as the owner of a registered brand shall be the owner of the brand.

Transfer of
registered brand.

17. The owner of a registered brand shall only be entitled to transfer it subject to this Ordinance and the Regulations.

Refusal to
register
transfer.

18. The Registrar may refuse to register the transfer of any registered brand on any ground he thinks fit.

Cancellation
of registration.

19. The Registrar may cancel the registration of any brand—

- (a) at the request of the registered owner of the brand;
- (b) in the event of the lease, sale, or transfer of the run in relation to which the brand is registered; or
- (c) on any other prescribed ground.

Delivery of
certificate on
cancellation.

20. If the registration of a brand has been cancelled, the person who was the owner of the brand before cancellation, or any person having the custody or possession of the certificate of registration of the brand, shall, on demand by the Registrar or an Inspector, deliver the certificate of registration to the Registrar or Inspector making the demand.

Penalty: Twenty pounds.

Appeal from
Registrar.

21.—(1.) An appeal shall lie to the Supreme Court from any refusal of the Registrar to register a brand or the transfer of a registered brand, or any decision of the Registrar to cancel a brand.

(2.) An appeal in pursuance of this section shall be instituted within the time and in the manner prescribed.

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22.—(1.) A decision of the Registrar to cancel the registration of a brand (except at the request of the registered owner) shall not be given effect to until the time for appeal has expired, or pending any appeal. Cancellation, when given effect to.

(2.) Subject to this section, the cancellation of the registration of a brand shall be entered in the Register, and when so entered shall be final.

23.—(1.) The Registrar shall allot to each public pound in the Territory a brand called a pound brand, and shall enter particulars of each brand so allotted in the Register. Pound brands.

(2.) The keeper of each pound shall, in case of the sale of any horse or cattle impounded in his pound, brand the horse or cattle with the pound brand in the manner prescribed.

(3.) A pound brand may be cancelled by the Registrar, or a new pound brand substituted as prescribed.

24. The Registrar shall forthwith, after the expiration of each half-year, publish in the *New Guinea Gazette* a statement containing particulars of all brands registered, cancelled, or transferred during the half-year, and the names and addresses of the owners of the brands. Half-yearly statements of brands.

25. The Registrar shall from time to time, as directed by the Administrator, prepare and publish a Brands Directory, in the prescribed form, containing particulars of all brands registered, and shall forward a copy thereof to each Inspector. Brands Directory.

26. The half-yearly statement of brands published in the *New Guinea Gazette*, and the Brands Directory, shall be *prima facie* evidence of the matters stated therein in any civil or criminal proceedings. Evidence.

PART IV.—OFFENCES.

27. A person shall not make in any Register, certificate, half-yearly statement, Brands Directory, or other document kept, published, or issued under this Ordinance or the Regulations, any statement which to his knowledge is false in any material particular. False entries in Register &c.

Penalty: Fifty pounds or imprisonment for six months.

28. A person shall not make in any application or form delivered to the Registrar in pursuance of this Ordinance or the Regulations, any statement which to his knowledge is false in any material particular. False statements to Registrar.

Penalty: Fifty pounds or imprisonment for six months.

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Destruction of
Register &c.

29. Any person who wilfully and unlawfully destroys, defaces, injures, or alters any Register, certificate, Brands Directory, or half-yearly statement of brands shall be guilty of an offence.

Penalty: Fifty pounds or imprisonment for six months.

Registered owners
only to use
brands.

30. A person shall not, unless he is or is deemed to be the registered owner of a brand under this Ordinance, use any brand for the purpose of branding stock or for any other purpose.

Penalty: One hundred pounds or imprisonment for six months.

Registered
brands only to
be used.

31. Except as provided by the Regulations, the registered owner or the person deemed to be the registered owner, of a brand, shall not use, for the purpose of branding stock, any brand other than a brand of which he is, or is deemed to be, the registered owner.

Penalty: One hundred pounds or imprisonment for six months.

Compliance with
Regulations.

32. A person shall not make or impress any brand on stock otherwise than in accordance with the Regulations.

Penalty: Ten pounds.

Persons branding
stock not
their property.

33. Any person who unlawfully brands any stock of which he is not the owner shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for one year, or both.

Blotching or
defacing brands
on stock.

34. Any person who—

(a) wilfully blotches, defaces, alters, or renders illegible any brand upon any stock; or

(b) knowingly offers for sale any stock upon which, since the commencement of this Ordinance, the brand has been blotched, defaced, altered, or rendered illegible,

shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for one year.

Blotching or
defacing brands
on hides.

35. Any person who—

(a) wilfully blotches, defaces, alters, renders illegible, or removes any brand upon any hide; or

(b) knowingly offers for sale any hide upon which, since the commencement of this Ordinance, the brand has been blotched, defaced, altered, or rendered illegible, or from which, since the commencement of this Ordinance, it has been removed,

shall be guilty of an offence.

Penalty: One hundred pounds or imprisonment for one year.

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36.—(1.) Any person who has in his possession any stock or any hide having thereon any brand which has been blotched, defaced, altered, or rendered illegible, or from which any brand has been cut or taken away, shall be guilty of an offence, unless he proves that the stock or hide came into his possession before the commencement of this Ordinance, or that at the time when the stock or hide came into his possession he did not know and could not with reasonable care have ascertained that any brand thereon had been blotched, defaced, altered, or rendered illegible, or that any brand had been cut or taken away therefrom.

Possession of stock or hides bearing blotched or defaced brands.

Penalty: Fifty pounds or imprisonment for six months.

(2.) This section shall not apply to possession by or under the authority of any Inspector acting in the execution of his duty.

37. Subject to this Ordinance, a District Court may order the forfeiture to the Administration of any stock, hide, or branding instrument with respect to which any offence against this Ordinance has been committed.

Forfeiture.

38. Any person who crops the ear of any stock shall be guilty of an offence.

Prohibition of cropping.

Penalty: Ten pounds.

PART V.—MISCELLANEOUS.

39. The provisions of this Ordinance shall not apply to the branding by any native of any swine or goat owned by him or to any brand used by him for that purpose, and the provisions of sections thirty-four, thirty-five, and thirty-six of this Ordinance shall not apply to swine or goats, or the hides of swine or goats, owned by natives.

Ordinance not to apply in certain cases.

40. The possession or custody of any stock or hide bearing any brand which has been blotched, defaced, altered, or rendered illegible shall be *prima facie* evidence that the person in whose possession or custody the stock or hide is found did blotch, deface, alter, or render illegible the brand.

Possession *prima facie* evidence of blotching.

41.—(1.) Any inspector who has seized any stock, hide, or branding instrument may make application to a District Court for an order under section thirty-seven of this Ordinance for the forfeiture of the stock, hide, or branding instrument, or for directions as to their disposal.

Proceedings for forfeiture.

(2.) The District Court to which the application is made, or any other District Court to which the matter is referred, may, after

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summoning such persons as appear to it to be interested, make such order for the forfeiture of the stock, hide, or branding instrument, or the delivery thereof to any person, or the dismissal of the application, as to it seems just.

(3.) Any stock or hides which have been ordered by a District Court to be forfeited may be disposed of in the manner prescribed by the Regulations or as the Registrar directs, but no forfeited stock or hides shall be sold unless branded with an official brand or marked with an official identification mark.

Effect of
official brand
or identification
mark.

42. Where any stock or hide bearing any brand which has been blotched, defaced, altered, or rendered illegible is branded with an official brand or marked with an official identification mark, the brand which has been blotched, defaced, altered, or rendered illegible shall be deemed to be cancelled, and the possession or sale of the stock or hide shall be deemed to be lawful.

Penalties.

43. Any person who commits an offence against, or contravenes any provision of, this Ordinance or the Regulations, shall, where no other penalty is provided, be liable in respect of the offence or contravention to a penalty not exceeding Ten pounds.

Power to make
regulations.

44. The Administrator in Council may make regulations,⁽²⁾ not inconsistent with this Ordinance, prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular prescribing matters providing for and in relation to—

- (a) the different classes of brands and marks that may be used for branding stock;
- (b) the procedure for the registration of brands and marks;
- (c) matters in relation to which fees shall be payable and the fees to be paid;
- (d) the forms required for the purposes of this Ordinance and the Regulations; and
- (e) the imposition of penalties not exceeding Twenty pounds for breaches of the Regulations.

(2) See the *Stock Brands Regulations*, printed on p. 4469.