

LAWS OF FIJI

CHAPTER 163

BRANDS

*Ordinances Nos. 32 of 1928, 14 of 1940, 1 of 1941,
2 of 1945, 22 of 1948, 44 of 1965,
Legal Notices Nos. 112 of 1970, 97 of 1979*

AN ACT RELATING TO THE BRANDING OF STOCK

[1 January 1929]

Short title

1. This Act may be cited as the Brands Act.

Interpretation

2. In this Act, unless the context otherwise requires -

"brand" means an impression of any letter, numeral, sign or character, or of any combination of these, branded on any stock by a fire-branding instrument, or any other prescribed method used for the purpose of indicating ownership;

"brand directory" means the annual list of brands compiled by the registrar and posted at his office;

"cattle" includes all bovine animals;

"distinctive mark" means any numeral or letter branded on any stock to denote the age or class;

"enclosed land" means land enclosed in such a manner as effectively to prevent the unauthorised ingress or egress of stock;

"horse" includes ass or mule;

"prescribed" means prescribed by this Act or any regulations made thereunder;

"proprietor" means registered proprietor of a brand;

"register" means the register of brands;

"registrar" means the registrar of brands;

"stock" means horses or cattle;

"unbranded stock" means stock which is required under the provisions of this Act to be branded and is not so branded.

(Amended by Ordinance 1 of 1941, s.2; 22 of 1948, s.2.)

Registrar and deputies

3.-(1) The Permanent Secretary for Primary Industries shall be the registrar of brands.

(Amended by Ordinance 14 of 1940, s. 2.)

(2) The Minister may appoint deputy registrars whose acts under the direction of the registrar shall have the same force and effect as if done by the registrar.

(Amended by Legal. Notice 112 of 1970.)

Stock to be branded

4. No person may keep more than four head of stock unless the same be marked with the brand of the owner registered as hereinafter mentioned. A failure to comply with the provisions of this section shall render the offender liable to a fine of \$10:

Provided that the provisions of this section shall not apply to any stock under the age of six months.

(Amended by Ordinance 44 of 1965, s. 2.)

The register

5.-(1) The registrar shall keep a register to be known as the "register of brands" and shall enter therein in the manner prescribed -

- (a) all brands registered under this Act;
- (b) the names and addresses of the proprietors;
- (c) such other particulars as may be prescribed.

(2) No brand shall be registered unless approved of by the registrar.

Dimensions of brand and period of registration

6.-(1) Every person who uses or intends to use a brand shall apply for registration of the same in the manner prescribed:

Provided that a brand shall be not less than 50 mm nor more than 65 mm in length and where a brand consists of more than one letter, numeral, sign or character, or any combination of these,

such letters, numerals, signs or characters shall be not less than 12 mm apart from each other:

Provided also that the order and position of brands shall be as stated in the Schedule.

(Amended by Legal Notice 97 of 1979.)

(2) Registration of a brand shall, subject to the provisions of section **11** have effect for the life time of the proprietor thereof unless it is sooner cancelled under the provisions of this Act.

(Substituted by Ordinance 44 of 1965, s. 3.)

List of brands registered to be published monthly and certificates granted

7. As soon as practicable after the end of each month the registrar shall cause to be published in the Gazette in the form prescribed a list of brands registered during such month, and shall thereupon transmit to the respective proprietors a certificate of registration in the form prescribed.

Annual brand directory to be posted

8. As soon as practicable after the end of every year the registrar shall cause to be posted at his office a complete list of all brands registered up to 31 December of such year and still in force.

(Amended by Ordinance 1 of 1941, s. 3.)

Transfer

9. When any brand registered under this Act is intended to be transferred, the proprietor and the intending transferee shall execute a joint memorandum in the form prescribed, and on receipt of such memorandum and the prescribed fee the registrar shall cancel the existing registration of such brand and shall register the same in the name of the transferee, and shall issue to him a certificate in the form prescribed.

(Amended by Ordinance 44 of 1965, s. 4.)

Procedure on transfer of stock

10.-(1) In every case where any stock branded with a brand registered under the provisions of this Act is sold or otherwise transferred to a proprietor of another brand, the purchaser or transferee shall, within three months of such sale or transfer, mark such stock with the brand registered in his name.

(2) Any person failing to comply with the provisions of this section shall be liable to a fine of \$50.

(Inserted by Ordinance 44 of 1965, s. 5.)

Death of proprietor

11. Upon the death of any proprietor his personal representative shall be entitled to use and renew any brand which belonged to such deceased proprietor at the date of his death for a period

of twelve months after his death. Such representative may within the said period apply in the form prescribed to have such brand registered in his name or in the name of his nominee. If no such application has been made within the said period the registration of such brand shall be cancelled and the brand shall be available for reallotment.

Brand out of use may be cancelled

12. If the registrar is satisfied that a proprietor, if an individual, does not require the further use of a brand or, where the proprietor of a brand is a company, firm or partnership, that such company, firm or partnership has been dissolved, the registration of such brand shall be cancelled.

Regulations

13.-(1) The Minister may make regulations for any purpose for which regulations may be made under the provisions of this Act and for prescribing anything which may be prescribed thereunder and otherwise for carrying this Act into effect and, in particular, but without prejudice to the generality of the foregoing may make regulations with respect to all or any of the following matters:-

(a) the application for registration, the registration, cancellation of registration, transfer and transmission of brands and the forms to be used in connection therewith;

(b) the construction and use of branding instruments;

(c) the use of brands and the order, size, position and use of distinctive marks;

(d) prescribing the payment of fees;

(e) prescribing the duties of the registrar and deputy registrars;

(f) the compilation of the brand directory and lists of brands;

(g) the allotment to any agricultural or kindred society or stock breeders association of brands to be used for specific purposes.

(Amended by Ordinance 44 of 1965, s. 6; Legal Notice 112 of 1970.)

(2) Such regulations may impose a fine not exceeding \$100 for any breach thereof.

(Amended by Ordinance 2 of 1945, s. 77.)

Offences and penalties

14.-(1) Any person who -

(a) knowingly and unlawfully inserts or causes or permits to be inserted any false entry in any register, certificate, brand directory or list of brands or in any extract therefrom; or

(b) forges or unlawfully alters, offers, utters or puts off knowingly the same to be forged or unlawfully altered, any such register, certificate, brand directory, list, extract, entry or any part thereof; or

(c) with intent to defraud destroys, defaces, injures or causes to be destroyed, defaced or injured any such register, certificate, brand directory, list, extract, entry or any part thereof; or

(d) uses any unregistered brand, or, without the consent of the proprietor; uses or attempts to use or permits to be used any registered brand, or without reasonable excuse has in his possession or under his control any cattle-branding instrument which does not represent the brand of which he or his employer is the registered proprietor; or

(e) disfigures, alters or defaces any registered brand branded or marked upon any stock or hides of the same,

shall be liable to imprisonment for any term not exceeding six months or to a fine not exceeding \$100.

(Amended by Ordinance 2 of 1945, s. 77; 22 of 1949, s. 3.)

(2) Any person who brands any stock with a brand which is not of the size and in the position and order prescribed shall be liable to a fine not exceeding \$20.

(Amended by Ordinance 2 of 1945, s. 77.)

(3) Any information or complaint under this section may be laid or made at any time within twelve months from the time when the matter of the information or complaint arose.

Powers of entry

15.-(1) In any case where reasonable ground exists for suspecting that an offence against this Act has been committed, the registrar, any deputy registrar or any police officer of or above the rank of inspector or any other police officer acting under his authority -

(a) may with or without assistance enter any land or premises or upon any vehicle, wharf or vessel for the purpose of inspecting any stock or any brand or any branding instrument or any hide; and

(b) may require the production of any stock or any branding instrument or any hide and may take possession of the same; and

(c) may require any person to furnish information as to the ownership of any stock or of any branding instrument or any hide.

(2) Any person who neglects or refuses to produce the stock or branding instrument or hide required to be produced or to furnish the information required or knowingly furnishes false

information shall be liable to a fine not exceeding \$100.

(Amended by Ordinance 2 of 1945, s. 77.)

Powers of registrar in relation to the seizure and disposing of unbranded stock

16.-(1) The powers of the registrar conferred by this section may be exercised by any person authorised in writing in that behalf by the registrar, and the word "registrar" shall be construed accordingly.

(2) This section shall apply to such areas in Fiji as the Minister may, by order, direct.*

(Amended by Legal Notice 112 of 1970.)

**Applied to the whole of Fiji Legal Notice No. 74 of 1973.*

(3) The provisions of this section shall be in addition to and not in derogation of the other provisions of this Act and of the provisions of any other law relating to the impounding or trespass of stock.

(4) In its application to any area to which this section has been applied the provisions of section 4 shall be read as if for the words "more than four head of stock" were substituted the words "any stock".

(5) It shall be lawful for the registrar to seize or cause to be seized and take possession of any unbranded stock, wherever found:

Provided that no stock shall be seized upon enclosed land unless -

(a) the occupier of the land cannot be found or it appears that no one is in occupation thereof; or

(b) the occupier of the land disclaims ownership of the stock; or

(c) the occupier of the land claims ownership of the stock but fails to brand the stock within thirty days of a direction in writing from the registrar requiring him so to do.

(6) It shall be lawful for the registrar to destroy or cause to be destroyed any unbranded stock found on unenclosed land so wild that it cannot, in his opinion, be seized, and dispose of the carcass in such manner as he may deem fit.

(7) A description of every head of stock of which possession is taken by the registrar under the provisions of this section together with a statement of the place where and the date upon which the stock was seized shall be published by the registrar by means of a notice publicly displayed at the place where the stock is kept in custody by the registrar and at the administrative office and police station nearest the place where the seizure was effected.

(8) If within fourteen days of the publication of the notice mentioned in subsection (7) the stock

has not been claimed, branded and removed by the owner of the stock or his agent after payment to the registrar of any expenses incurred by him in the care of the stock, the registrar may cause the stock to be sold by public auction, of which public notification shall be given.

(9) The proceeds of the sale of stock made under the provisions of subsection (8) shall, after deducting any expenses incurred by the registrar in the care of the stock, be paid to any person who satisfies the registrar within three months of the date of such sale that he was the owner of the stock, and otherwise shall be paid into the Consolidated Fund.

(10) Neither the registrar nor any other person acting under his authority or direction shall be liable for any damage or compensation in respect of the loss of or injury to any stock lawfully seized, kept in custody, destroyed or sold in accordance with the provisions of this section.

(11) In exercise of his powers under this section the registrar may enter upon any land whether enclosed or unenclosed:

Provided that before entering upon enclosed land the registrar shall, if practicable, notify the person in possession thereof.

(12) If any stock destroyed under the provisions of subsection (6) is found to be duly branded the person destroying the stock shall as soon as may be inform the proprietor of the brand of the destruction of such stock and the circumstances thereof, but no compensation shall be payable to the said proprietor in respect of such destruction.

(Inserted by Ordinance 22 of 1948, s. 4.)

Brand prima facie evidence of ownership

17.-(1) The mark or impression of any registered brand on any stock shall be *prima facie* evidence of the ownership of the said stock by the person in whose name such brand is registered in the register.

Brand directory

(2) A copy certified by the registrar of the latest brand directory or a copy of the Gazette published since the publication of the last issue of the brand directory and containing a list of brands as provided for in section 7 shall be *prima facie* evidence in all legal proceedings that the person mentioned in such brand directory or list and no other person is the proprietor of and entitled to use the brand of which he is therein alleged to be the proprietor. *(Amended by Ordinance 1 of 1941, s. 4.)*

(3) Any person producing in evidence any such brand directory or list knowing the entry therein referred to have been since cancelled under the provisions of this Act shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding \$100.

(Amended by Ordinance 2 of 1945, s. 77.)

Fees, how payable

18. All fees payable under this Act shall be paid to the registrar or deputy registrar who shall pay the same into the Consolidated Fund.

Service of notices, etc.

19. Where it is necessary to give any notice or send any document to any person such notice or document may be communicated or sent to such person by letter or delivered to him personally or left at his usual or last-known place of abode or business.

Disposal of penalties

20. All fines recovered under this Act shall be paid into the Consolidated Fund.

SCHEDULE

(Section 6 (1))

(Substituted by 22 of 1948, s. 5.)

ORDER AND POSITION OF BRANDS ON CATTLE AND HORSES

Every brand shall be branded on the near shoulder, and if that position is not available on the near thigh; if neither of the foregoing positions is available, on the off shoulder; if none of the foregoing positions is available, on the off thigh.

Controlled by Ministry of Primary Industries

Subsidiary Legislation

CHAPTER 163

BRANDS

SECTION 13-BRANDS REGULATIONS

TABLE OF PROVISIONS

REGULATION

1. Short title
 2. Interpretation
 3. Form of register, certificate, applications and notices
 4. Register of brands
 5. Notice of registration of brands
 6. Advertisement of brand
 7. Date of registration
 8. Certified copies
 9. Fees
- First Schedule -Forms
Second Schedule -Fees

Regulations 24 November 1965, Legal Notices Nos. 211 of 1974, 24 of 1979

Short title

1. These Regulations may be cited as the Brands Regulations.

Interpretation

2. In these Regulations the expression "the Act" means the Brands Act.

Form of register, certificate, applications and notices

3.-(1) Every register, certificate, application and notice under the Act shall be kept, issued, made or given in the appropriate form set out in the First Schedule.

(2) Any authority or person having power to issue any certificate under the provisions of the Act shall, on it being proved to his satisfaction that such certificate has been lost or destroyed and on payment of the prescribed fee, issue a duplicate of the certificate to the person entitled thereto.

Register of brands

4. The particulars to be recorded in the register shall be those specified in Form A of the First Schedule.

Notice of registration of brands

5. The notice referred to in section 7 of the Act shall be published in the Gazette in Form B of the First Schedule.

Advertisement of brand

6. For the purpose of advertising particulars of registration of any brand under the provisions of sections 7 and 8 of the Act, the registrar may require the applicant to furnish a wood block or electrotype of the brand, of such dimensions as may be directed by the registrar.

Date of registration

7. When a brand is registered the date on which the application was received by the registrar shall be deemed to be the date of registration.

Certified copies

8. Any person may upon application and payment of the prescribed fee receive a certified copy of any application made under the Act.

Fees

9. The fees set out in the Second Schedule shall be payable to the registrar in respect of the several matters specified therein.

FIRST SCHEDULE

(Regulation 3)

FORM A

BRANDS ACT
(CHAPTER 163)

BRANDS REGULATIONS

(Regulation 4)

FORM OF REGISTER TO BE KEPT BY REGISTRAR

No. in register	Date of registration	Name of proprietor	Address	Band

FORM B

BRANDS ACT
(CHAPTER 163)

BRANDS REGULATIONS

(Regulation 5)

NOTICE OF REGISTRATION OF BRANDS

It is hereby certified that the following brands have been registered under the Brands Act during

the month of, 19.....

No. in register	Date of registration	Name of proprietor	Address	Brand

Dated this day of, 19.....

.....
Registrar of Brands

FORM C

BRANDS ACT
(CHAPTER 163)

(Section 6)

APPLICATION FOR REGISTRATION OF BRAND

I of request the registration of a form of brand for cattle as my brand for the purpose of distinguishing cattle owned by me.

Dated this day of, 19.....

.....
(Signature or left thumb mark of applicant)

Witness to signature or left thumb mark of applicant:

(FOR OFFICIAL USE ONLY)

Note.-The accounting authority receiving the fee must insert the Brands receipt No. in the space provided below.

Application registered Date: Brand Registration No: Searched and Indexed Date: Brands Receipt No: <p style="text-align: right;"><i>Registrar</i></p>
--

Lodged by:

Date:

Form of brand allocated by Registrar

Cancelled by No:

Registrar

Date:

FORM D

**BRANDS ACT
(CHAPTER 163)**

(Section 9)

APPLICATION FOR TRANSFER OF BRAND

I of being registered proprietor
of the following brand

and holder of Certificate No.: apply for the registration of this brand in the name of
the transferee.

Dated this day of, 19.....

.....
(Signature or left thumb mark of transferor)

Witness to signature or left thumb mark of transferor:

I of wish to be registered as transferee
of the above form of brand.

Dated this day of, 19.....

.....
(Signature or left thumb mark of transferee)

Witness to signature or left thumb mark of transferee:

(FOR OFFICIAL USE ONLY)

Note. The accounting authority receiving the fee must insert the Brands receipt No. in the space provided below.

Application registered Date: Brand Registration No: Searched and Indexed Date: Brands Receipt No: <i>Registrar</i>
--

Lodged by:

Date:

Cancelled by No: <i>Registrar</i> Date:

FORM E

BRANDS ACT
(Chapter 163)

(Section 11)

APPLICATION FOR TRANSMISSION OF BRAND BY DEATH

I of do hereby solemnly and sincerely declare as follows:-

1. late of
(Address)

died at on the day of, 19.....

2. The said at the date of his death was the
(Name)

registered proprietor of Brand No.:

--

Form of Brand

3. I am the personal representative of the said deceased.

4. I hereby make application that I as owner (or trustee) [*delete as appropriate*]
or.....*(name of Nominee)*

of may be registered as proprietor of the above described brand. And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act.

Declared at this day of, 19....., before me.

.....
(Signature or left thumb mark of declarant)

I am the nominee referred to above and agree to the proposed registration.

.....
(Signature or left thumb mark of nominee)

Witness to signature or left thumb mark of nominee:

(FOR OFFICIAL USE. ONLY)

Note.-The accounting authority receiving the fee must insert the Brands receipt No. in the space provided below.

Application registered Date:
Brand Registration No:
Searched and Indexed Date:
Brands Receipt No:
<i>Registrar</i>

Lodged by:

Date:

Cancelled by No.:
<i>Registrar</i>
Date:

FORM F

Brand Certificate No:

BRANDS ACT
(Chapter 163)

(Section 7)

CERTIFICATE OF REGISTRATION OF A BRAND

I hereby certify that is the registered proprietor of the following brand from the day of, 19....., until the brand registration is transferred in accordance with the provisions of section 9, or cancelled in accordance with the provisions of section 11 of the Act, or until the death of the proprietor.

Form of Brand

Dated this day of, 19.....

Registrar

SECOND SCHEDULE

(Regulation 9)

(Substituted by Legal Notice 24 of 1979.)

FEEES

The following fees shall be payable to the Registrar:-

	\$	c
(a) for registration of brand	2.00	
(b) for registration of transfer of brand	2.00	
(c) for registration of transfer by death	2.00	
(d) for search in any index	1.00	
(e) for a duplicate or a certified copy of any certificate or application	1.00	

SECTION 16-APPLICATION OF SECTION

Legal Notice No. 74 of 1973

Section 16 shall apply to the whole of Fiji.

Controlled by the Ministry of Primary Industries