



AUSTRALIAN CAPITAL TERRITORY

Stock Act 1991

No. 10 of 1991

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SCHEDULE**PLACEMENT OF BRANDS**



AUSTRALIAN CAPITAL TERRITORY

Stock Act 1991

No. 10 of 1991

An Act to regulate the marking and movement of stock and the levying of stock fees, and to repeal the *Stock Act 1934*

[Notified in *ACT Gazette S 19*: 3 April 1991]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Stock Act 1991*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.
- (2) Subject to subsection (3), the remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the expiration of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision shall, by force of this subsection, commence on the expiration of that period.

Repeal

3. The *Stock Act 1934* is repealed.

Interpretation

4. (1) In this Act, unless the contrary intention appears—
- “cattle” includes any bovine species of animal;
 - “Controller” means the Controller of Stock appointed under section 5;
 - “Deputy Controller” means a Deputy Controller of Stock appointed under section 7;
 - “determined fee” means the fee determined under section 42 for the purposes of the provision in which the expression occurs;
 - “drover” means a person in charge of travelling stock;
 - “earmark” means a shape cut into the ear of large stock, other than cattle or horses, or small stock, in accordance with this Act;
 - “holding” means any parcel or parcels of land worked as one property, whether held under the same or different titles;
 - “horse” includes an ass and a mule;
 - “inspector” means a person appointed as an inspector under section 10;
 - “large stock” means cattle, horses and such other animals as are declared by the regulations to be large stock for the purposes of this definition;
 - “mark” means an earmark or permanent brand;
 - “occupier”, in relation to land, means the person for the time being entitled to the possession of that land, and, where the occupier does not reside on the land, includes a person in charge of that land as manager for, or agent of, the owner;
 - “owner”, in relation to stock, includes a person for the time being having the custody or control of that stock on behalf of the owner as manager for, or representative or agent of, the owner;
 - “permanent brand” means a mark, other than an earmark, made on the skin of stock by burning or freezing;

“permit” means a permit to travel stock issued by the owner of the stock or by a person authorised by the Minister for the purpose;

“Register” means the Small Stock Register or the Large Stock Register, as the case requires, kept pursuant to section 23;

“registered mark” means a mark registered under section 25;

“registered proprietor”, in relation to a mark, means the person for the time being entered in the relevant Register under section 25 as the proprietor of the mark;

“small stock” means sheep, goats, pigs and such other animals as are declared by the regulations to be small stock for the purposes of this definition;

“stock” means—

- (a) large stock; and
- (b) small stock;

“stock levy” means the levy payable under Division 1 of Part III;

“stock unit” means a stock unit determined in accordance with section 13;

“travelling stock” means stock being driven or transported otherwise than on the holding on which they are ordinarily depastured.

(2) A reference in this Act to an animal, being a reference consisting of a generic term that describes an animal of a particular kind and sex shall be read as a reference to an animal of that kind and sex irrespective of age.

PART II—ADMINISTRATION

Controller of Stock

5. For the purposes of this Act, there shall be a Controller of Stock who shall be appointed by the Minister.

Acting Controller of Stock

6. The Minister may appoint a person to act as Controller—

- (a) during a vacancy in the office of Controller; or
- (b) during any period, or during all periods, when the Controller is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of his or her office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

Deputy Controllers

7. (1) There shall be such Deputy Controllers of Stock as are appointed by the Minister for the purposes of this Act.

(2) A Deputy Controller may, subject to any directions of the Controller, exercise any power or perform any function of the Controller under this Act.

Resignation of Controller or Deputy Controller

8. A person appointed under section 5 or subsection 7 (1) may resign office by writing signed by the person and delivered to the Minister.

Termination

9. (1) The Minister may terminate the appointment of a person as Controller or Deputy Controller for misbehaviour or physical or mental incapacity.

(2) The Minister shall terminate the appointment of a person as Controller or Deputy Controller if the person—

- (a)** becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b)** is absent, without leave of the Minister, from duty for 14 consecutive days or for a total of 28 days in any period of 12 months; or
- (c)** is convicted in Australia of an offence punishable by imprisonment for 12 months or longer.

Inspectors

10. (1) The Minister may, in writing, appoint a person as an inspector for the purposes of this Act.

(2) An inspector shall, subject to this Act and the regulations, perform such duties as the Minister directs.

Identity cards

11. The Minister shall issue to an inspector an identity card specifying the name and appointment of the person and on which appears a recent photograph of the person.

Return of identity cards

12. A person appointed to be an inspector shall not, without reasonable excuse, fail to return his or her identity card to the Controller upon ceasing to be an inspector.

Penalty: \$100.

PART III—STOCK LEVY AND MARKS***Division 1—Stock levy*****Determination of stock levy**

13. (1) The Minister may, by instrument, determine—

- (a) in respect of each kind of stock, the number of stock units represented by a specified number of that kind of stock; and
- (b) the levy for 1 stock unit.

(2) An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Stock carrying capacity

14. The Controller may, by instrument, determine, from time to time, the stock carrying capacity, expressed in terms of stock units, of land held under a lease the terms of which authorise the carrying of stock on the land.

Imposition of stock levy

15. A person who, on any day in a financial year, was the occupier of land under a lease, the terms of which authorised the carrying of stock on the land, is liable to pay, in respect of that year, a stock levy calculated in accordance with the formula—

$$UL \times SCC \times \frac{DO}{365}$$

where—

- UL** is the levy for 1 stock unit determined under section 13;
- SCC** is the stock carrying capacity, expressed in stock units, of the land, as determined by the Controller under section 14;
- DO** is the number of days in that year on which the person was the occupier.

Returns

16. (1) A person who is liable to pay a stock levy in respect of a financial year shall not, without reasonable excuse, fail to lodge with the Controller a return before the next 31 July.

Penalty: \$500.

(2) A return under this section shall be in a form approved by the Controller and shall specify—

- (a) the land in the Territory occupied by the person under a lease the terms of which authorised the carrying of stock on the land; and
- (b) in respect of each day on which that land was occupied by the person, the stock—
 - (i) owned by the person on that land; and
 - (ii) not owned by the person on that land.

Inspectors—powers of entry

17. (1) An inspector may, at any reasonable time, enter premises on which the inspector has reasonable grounds for believing there is stock, or there are kept any books, documents or other records relating to a return for the purposes of verifying the correctness of a return made in accordance with section 16.

(2) An inspector who enters premises under subsection (1) is not authorised to remain in or on the premises if, on request by the occupier of the land, the inspector does not show his or her identity card to the occupier.

(3) An inspector who enters premises under subsection (1) may inspect, make copies of, or take extracts from any books, documents or other records relating to a return.

(4) An inspector may require the occupier of land to give the inspector such assistance as is reasonable to enable the inspector to exercise his or her powers under this section.

(5) A person who, without reasonable excuse, contravenes a requirement made of the person under subsection (4) is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) if the offender is a natural person—\$1,000; or
- (b) if the offender is a body corporate—\$5,000.

- (6) In this section—
“premises” includes land.

Stock levy notice

18. The Controller shall, as soon as practicable after the expiration of a financial year, cause to be given to a person who is liable under section 15 to pay a stock levy in respect of that year, notice in writing of the amount of stock levy payable by that person and the due date for the payment of the levy.

Payment of stock levy

19. (1) A stock levy imposed by section 15 is payable to the Territory.

(2) The due date for the payment of a stock levy in respect of a financial year by a person is 28 days after the date of the notice under section 18.

Unpaid stock levy

20. (1) A lease the terms of which authorise the carrying of stock on the land the subject of the lease shall be deemed to include a covenant by the occupier to pay the stock levy imposed under section 15.

(2) Subsection (1) does not derogate from any right of the Territory to recover, as a debt due, any amount of unpaid stock levy.

Division 2—Marks

Offence—use of marks

21. (1) The owner of stock shall not, without reasonable excuse, mark or cause to be marked such stock with a mark of which he or she is not the registered proprietor.

(2) A person shall not, without reasonable excuse, earmark large stock with a registered mark, except with the permission of the Controller.

Penalty:

- (a) if the offender is a natural person—\$500;
- (b) if the offender is a body corporate—\$2,500.

Offence—earmarking certain small stock

22. (1) A person—

- (a) who is the owner of a sheep or goat that attains the age of 6 months; or

- (b) who becomes the owner of a sheep or goat that has attained the age of 6 months;

shall, if the sheep or goat has not previously been earmarked, within 14 days of—

- (c) the sheep or goat attaining the age of 6 months; or
- (d) the person becoming the owner;

respectively, cut the registered earmark of which he or she is the registered proprietor—

- (e) in the case of a male or desexed sheep or goat—into the left ear;
or
- (f) in the case of a female sheep or goat—into the right ear.

(2) A person who, without reasonable excuse, contravenes subsection (1) is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) if the offender is a natural person—\$500; or
- (b) if the offender is a body corporate—\$2,500.

Registers

23. For the purposes of this Division, the Controller shall keep 2 registers—

- (a) a “Small Stock Register”; and
- (b) a “Large Stock Register”.

Application for registration

24. An application for the registration of a mark shall—

- (a) be in writing in a form approved by the Controller;
- (b) be signed by the applicant;
- (c) contain a description, or description and diagram, of the mark to which the application relates;
- (d) contain such other particulars (if any) as are prescribed; and
- (e) be accompanied by the determined fee.

Registration of mark

25. (1) The Controller shall approve an application under section 24—

(a) unless satisfied that—

(i) the design of the mark is the same as or could be confused with, or easily modified to resemble, the design of a mark registered under this Act or a brand or mark registered under the Rural Lands Protection Act 1989 of the State of New South Wales; or

(ii) the design and proposed method of application of the mark would not be suitable for its purpose; or

(b) in the case of a permanent brand—if the mark consists of alphanumeric or symbolic characters, or both, each character being—

(i) not less than 35 millimetres and not more than 75 millimetres in height; and

(ii) located not less than 10 millimetres from another character.

(2) Where the Controller approves an application for the registration of a mark, the Controller shall issue the applicant with a certificate of registration of the mark and shall register the mark by entering—

(a) in the case of an application for the registration of a mark for small stock—the name of the proprietor and the mark in the Small Stock Register; or

(b) in the case of an application for the registration of a mark for large stock—the name of the proprietor and the mark in the Large Stock Register.

(3) A certificate of registration shall be in a form approved by the Controller.

(4) The Controller shall, by notice, inform the applicant in writing of the Controller's decision to refuse to register the mark.

Effect of registration

26. The registration of a mark in a Register kept pursuant to section 23, if valid, gives to the registered proprietor the exclusive use of that mark.

Use of registered mark by personal representative

27. (1) A personal representative of a deceased person who was, immediately before his or her death, entitled to the exclusive use of a registered mark, is entitled to the exclusive use of that mark during the period commencing on the date of the grant of probate of the will, or letters of administration of the estate, of that person and ending when the distribution of the estate of that person or of that part of the estate that comprises or includes the stock bearing the mark, is completed.

(2) A personal representative of a deceased person referred to in subsection (1) shall notify the Controller when the distribution of the estate of that person or of that part of the estate that comprises or includes stock bearing the mark of which the deceased person was registered proprietor, is completed.

Cancellation of registered mark

28. (1) The Controller may cancel a registered mark—

- (a) if the Controller is satisfied, on reasonable grounds, that—
 - (i) the mark is not in use or is not required for use by the registered proprietor; or
 - (ii) the registration was obtained by fraud or misrepresentation;
- (b) if the Controller is requested to do so by the registered proprietor; or
- (c) if the registered proprietor is a body corporate—on the winding up of the body corporate.

(2) Where the Controller cancels a registered mark, the Controller shall give the registered proprietor of that mark notice in writing of the cancellation.

Alteration of Register

29. The Controller shall, at the written request of a registered proprietor or of the Controller's own accord, make such alterations to the Register as are necessary.

Placement of brands

30. (1) The owner of large stock that has not been previously branded who marks such stock with a permanent brand shall brand the stock—

- (a) in the case of a horse—on the portion specified in item 1 of Part 1 of the Schedule; or

(b) in any other case—on the portion specified in item 1 of Part 2 of the Schedule.

(2) The owner of large stock that has been previously branded who marks such stock with a permanent brand shall brand the stock—

(a) in the case of a horse—on the first portion specified in Part 1 of the Schedule that has not been branded; or

(b) in any other case—on the first portion specified in Part 2 of the Schedule that has not been branded.

(3) A person who, without reasonable excuse, contravenes subsection (1) or (2) is guilty of an offence punishable, on conviction, by a fine not exceeding—

(a) if the offender is a natural person—\$500; or

(b) if the offender is a body corporate—\$2,500.

Earmarking—stock with valuable fleece

31. (1) A person who is the owner of large stock kept for the commercial value of its fleece or hide may apply to the Controller for permission to earmark the stock.

(2) An application shall—

(a) be in writing in a form approved by the Controller; and

(b) be accompanied by the determined fee.

(3) The Controller shall grant permission to earmark large stock if satisfied that the large stock is kept for the commercial value of its fleece or hide.

(4) The Controller shall, by notice in writing, inform the applicant of his or her decision to grant or refuse to grant permission under this section.

(5) A person who cuts an earmark into large stock pursuant to this section shall—

(a) in the case of male or desexed male stock—cut the earmark into the left ear; or

(b) in the case of female stock—cut the earmark into the right ear.

(6) A person who, without reasonable excuse, contravenes subsection (5) is guilty of an offence punishable, on conviction, by a fine not exceeding—

(a) if the offender is a natural person—\$1,000; or

(b) if the offender is a body corporate—\$5,000.

Unauthorised use of mark

32. A person shall not, without reasonable excuse—

- (a) use a registered mark without the authority of the registered proprietor;
- (b) apply any registered mark to stock without the authority of the owner;
- (c) alter or destroy an earmark that has been cut; or
- (d) in the course of cutting a registered mark into the ear of stock pursuant to section 22 or 31, cut off more than one quarter of—
 - (i) the left ear of male or desexed male stock; or
 - (ii) the right ear of female stock.

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

PART IV—TRAVELLING STOCK**Permits to travel stock**

33. (1) A person shall not travel stock unless, before the person moves the stock from a holding or run, he or she has obtained—

- (a) a permit to travel the stock—
 - (i) issued to the owner by a person authorised in writing by the Controller for the purpose; and
 - (ii) signed by the owner; or
- (b) a permit to travel the stock issued by the owner of the stock.

(2) A drover in charge of travelling stock, when delivering the stock to another drover, shall deliver to the other drover the permit issued pursuant to paragraph (1) (a) or (b), as the case may be, and shall endorse upon the permit the name of the drover to whom the permit and the stock are being delivered.

(3) A permit under subsection (1) shall be in a form approved by the Controller.

(4) Subsection (1) does not apply to the movement of stock—

- (a) between 2 parts of the same holding situated not more than 16 kilometres apart; or

(b) to or from a shearing shed or dip.

(5) A person who, without reasonable excuse, contravenes subsection (1) or (2) is guilty of an offence punishable, on conviction, by a fine not exceeding—

- (a) if the offender is a natural person—\$1,000; or
- (b) if the offender is a body corporate—\$5,000.

Issue of permits

34. A person shall not, without reasonable excuse, issue a permit to travel stock unless the person is—

- (a) the owner of the stock; or
- (b) a person authorised by the Controller for the purpose of issuing permits to travel stock.

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

Production of permit

35. (1) A drover travelling stock shall not, if requested to do so by an inspector or a police officer, or the occupier of any land on which the stock is being travelled, without reasonable excuse, fail to produce the permit issued in respect of the movement of that stock.

Penalty: \$500.

(2) A drover is not required to comply with subsection (1) if, on being requested to do so, the inspector fails to produce to the drover his or her identity card.

Movement of travelling stock

36. A person shall not, without reasonable excuse, move travelling stock, otherwise than by the most direct route that is reasonable in the circumstances.

Penalty:

- (a) if the offender is a natural person—\$1,000;
- (b) if the offender is a body corporate—\$5,000.

PART V—MISCELLANEOUS**Obstruction**

37. A person shall not, without reasonable excuse, obstruct or hinder the Controller, a Deputy Controller or an inspector in the exercise of his or her powers under this Act.

Penalty: \$1,000 or imprisonment for 6 months, or both.

Evidence

38. In any proceedings under this Act, a certificate purporting to be signed by the Controller and stating that—

- (a) the person specified in the certificate was on a specified date or during a specified period registered as proprietor of a mark;
- (b) the person specified in the certificate was authorised to issue a permit in respect of stock; or
- (c) the person specified in the certificate had not lodged a return under section 16 in relation to stock;

is evidence of the matters so stated.

Notification of decisions

39. (1) A notice under section 18 or subsection 25 (4), 28 (2) or 31 (4) shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 26 of that Act.

(2) The validity of a decision referred to in subsection (1) shall not be taken to be affected by a failure to comply with that subsection.

Review of decisions

40. Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Controller—

- (a) determining the stock carrying capacity of land under section 14;
- (b) refusing to approve an application under section 25;
- (c) cancelling a registered mark under subsection 28 (1); or

- (d) refusing to grant permission under section 31.

Notice—where more than one occupier

41. Where 2 or more persons are occupiers of the same land, a notice required by this Act to be given to an occupier shall, in relation to that land, be deemed to have been duly given if given to one of those persons.

Power of Minister to determine fees

42. The Minister may, by notice published in the *Gazette*, determine fees for the purposes of this Act.

Annual report

43. (1) The administrative head shall furnish to the Minister for presentation to the Legislative Assembly a report relating to the activities of the Controller during each financial year.

(2) The report in respect of a financial year shall be furnished within 3 months after the end of that year.

(3) The Minister shall present a copy of each report to the Legislative Assembly within 6 sitting days of the Assembly after the day on which the Minister received the report.

Regulations

44. The Executive may make regulations, not inconsistent with this Act, prescribing all matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and in particular, providing for penalties not exceeding \$1,000 for offences against the regulations.

Transitional

45. (1) An earmark recorded under the *Stock Act 1934*, or registered under the Rural Lands Protection Act 1989 of the State of New South Wales, being a record or registration having effect immediately before the commencement of this Act, shall be deemed to have been registered under this Act.

(2) A brand registered under the Rural Lands Protection Act 1989 of the State of New South Wales, being a registration having effect immediately before the commencement of this Act shall for a period of 12 months after that commencement be deemed to have been registered as a permanent brand under this Act.

SCHEDULE

Section 30

PLACEMENT OF BRANDS

PART 1—HORSES

Item	Description of portion
1	Near-shoulder
2	Off-shoulder
3	Near-rump, hip and thigh
4	Off-rump, hip
5	Near-ribs and saddle
6	Off-ribs and saddle

PART 2—LARGE STOCK, OTHER THAN HORSES

Item	Description of portion
1	Near-rump, hip or thigh
2	Off-rump, hip or thigh
3	Near-back and ribs
4	Off-back and ribs
5	Near-shoulder
6	Off-shoulder
7	Near-loin
8	Off-loin

[Presentation speech made in Assembly on 21 February 1991.]