

Government Gazette

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GENERAL NOTICE

Notice 13 of 1999

DEPARTMENT OF AGRICULTURE

DRAFT ANIMAL IDENTIFICATION BILL

The Draft Animal Identification Bill, 1998, is hereby published for comment.

Interested persons are hereby invited to furnish written comments and representations concerning the Draft Bill to the Registrar of Livestock Improvement and Brands, Department of Agriculture, Delpen Building, corner of Annie Botha and Union Streets, Pretoria, or Private Bag X138, Pretoria, 0001, facsimile number (012) 329-7098, marked for the attention of Mrs Z. Wolfswinkel within four weeks after publication hereof.

The Livestock Brands Act, 1962 (Act No. 87 of 1962), provides for a legal and uniform identification system for most farm animals. This is the first line of defence against the stock thief who preys on all sectors of animal agriculture in the country: From the rural stock owner with his or her one or two animals to the large commercial producer with breeding flocks or herds often well in excess of 100 females. Positive and legal proof of ownership not only helps to return "found" animals to their rightful owners, but also helps to secure a conviction in stock theft cases.

It is therefore important to ensure that the Act does, in fact, facilitate a user friendly animal identification system. Should practical problems arise, it must be possible to adapt legislation to prevent it becoming counter productive.

It is for this reason that the National Department of Agriculture maintains an open and consultative policy as far as livestock identification legislation is concerned. The effectiveness of legislation is therefore largely dependent of feedback from all sectors of animal agriculture in the country and all comments, complaints and suggestions are noted and viewed on a regular basis. In addition, regular meetings are held with the SAPS stock theft unit and, where necessary, discussions are held with major role players in the industry.

Feedback over the past two years as well as feedback from the National Stock Theft Workshop held in 1996 identified the following broad needs:

- Countrywide compulsory marking;
- a country identification mark to identify South African livestock in border areas in particular;
- optional marking sequence;
- registration of people marking animals for a living;
- the tattooing of calves, lambs and kids (in particular) before weaning age;
- user and reader-friendly legislation.

Some of these aspects were dealt with in a recent regulation amendment but it is clear that a "new-look" Act is required to consolidate all the needs.

A draft Bill was therefore compiled in consultation with the SAPS, the Red Meat Producers Organisation and the feedlot industry. This draft is now ready for public consultation.

Why do we need Livestock Identification Legislation?

- To be able to prove ownership of livestock;
- to facilitate the permanent and visible marking of animals as a deterrent to stock thieves;
- to enable the SAPS Stock Theft Unit to render an effective service to all stock owners in South Africa.

Who will benefit?

- Every owner of livestock in South Africa.

Who could possibly object to the Bill?

- Stock thieves. The Bill will help put them out of business permanently.

What does the proposed Country Identification mark look like?

- A three-legged pot.

K. RAMSAY
Registrar of Livestock Improvement and Brands

BILL

To consolidate the law relating to the identification of animals and to provide for matters incidental thereto

1. Definitions

In this Act, unless the context otherwise indicates—

"**animal**" means any kind of animal or any animal of any specified breed of any such kind of animal as may in terms of section 2 have been declared to be an animal for the purposes of any provisions of this Act;

"**authorised person**" means any person other than an officer who has been authorised by the Minister to carry out a specific function in terms of this Act.

"**cancel**", in relation to a brand on any livestock, means any manner whereby an identification mark is rendered illegible or less illegible;

"**earmark**" means any mark made by cutting, cropping, punching or slitting the ear of an animal;

"**group**", in relation to animals, means either large stock, small stock or ostriches;

"**identification mark**", used as a noun, means any mark made or placed on any animal for any purpose whatsoever, and includes any representation of a mark intended to be so made or placed on any animals, as the circumstances may require, but does not include -

- a. any mark made or placed on the horn or hoof;
- b. any mark made with paint on any animal;
- c. any clasp, rivet or tag attached to the ear, or any mark made on such clasp, rivet or tag;

"**large stock**" means cattle, horses, donkeys and mules;

"**mark**", used as a verb, means make or place a permanent mark on any animal;

"**marking instrument**" means any instrument used or intended to be used for marking

animals;

"marking operator" means a person registered in terms of section 11 to mark animals for an owner;

"Minister" means the Minister of Agriculture of the National Government;

"officer" means an officer as defined in section 1 (1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994);

"owner", in relation to any registered identification marks, means the person or, in the case of the State, the Department in whose name such identification mark is registered;

"prescribed" means prescribed by regulation;

"registered" means registered in terms of this Act, and **"registration"** has a corresponding meaning;

"registrar" means the officer designated as Registrar of Identification Marks in terms of section 3;

"Republic" means the Republic of South Africa;

"sell" includes agree to sell, or offer, advertise, expose, transmit, send, convey, or deliver for sale, or to exchange or to dispose of to any person in any way for any consideration and **"sold"** and **"sale"** have corresponding meanings;

"slaughter facility" means a place at which animals are slaughtered or are intended to be slaughtered;

"small stock" means sheep and goats;

"tattoo" means any mark made by inserting Indian ink or other pigment or colouring matter into punctures on any animal; and

"this Act" includes any regulations made in terms thereof.

2. Application of Act

The provisions of this Act shall apply with reference to any such kind of animal or any animal of any specified breed of any such kind of animal as the Minister may by notice in the Gazette declare to be an animal for the purposes of this Act.

3. Designation of registrar

1. The Minister shall designate an officer in the department as the Registrar of Identification Marks, who shall exercise the powers, perform the functions and carry out the duties conferred upon, assigned to or imposed on the registrar under this Act.
2. The registrar shall exercise his powers, perform his functions and carry out the duties subject to any instruction issued by the Minister:
 - a. The registrar may in writing delegate to any officer or, with the approval of the Minister, assign to any person who is not an officer, any power, duty or function conferred or imposed upon or assigned to him or her in terms of this Act;
 - b. any decision made or order given by such an officer or person assigned in terms of subsection 2 (a) may be withdrawn or amended by the registrar and shall, until it has been so withdrawn or amended, except for the purposes of this paragraph, be deemed to have been made or given by the registrar.

4. Register of identification marks

1. The registrar shall keep a register of all identification marks in the Republic containing the prescribed particulars as well as any other record for the purposes of this Act as the Registrar may deem necessary.
2. The registrar shall—
 - a. make the register available for inspection at his or her office during normal office hours; and
 - b. furnish, at the request of any person having an interest therein, and on payment of the prescribed fee, a copy of any particulars in the register or a certificate in respect thereof.

5. Identification marks

1. The Minister shall prescribe identification marks in respect of each group of animals which mark shall be allocated in terms of section 6.
2. An amendment of the regulations referred to in subsection (1) shall not affect or nullify an identification mark registered in the name of any person before such an amendment.

6. Application for registration of identification mark.

1. An application for registration of an identification mark shall be made to the Registrar in the prescribed manner and be accompanied by the prescribed fee.
2. If the application complies with the requirement of this Act the Registrar shall—
 - a. allocate an identification mark to the applicant;
 - b. register such identification mark in the applicant's name; and
 - c. issue to the applicant a certificate of registration.

7. Duties of owners of animals

1. Each owner of an animal shall—
 - a. within six months of the date of the certificate of registration referred to in section 6, mark his or her animal in the prescribed manner;
 - b. within fourteen days of the date on which he or she becomes the owner of an animal, mark such animal in the prescribed manner;
 - c. within fourteen days of the date on which he or she becomes the owner of an animal, mark such animal with the prescribed country identification mark;
 - d. where an animal has been erroneously marked, mark the animal in the prescribed manner
 - e. if an identification mark on any animal becomes invisible or indistinct, mark the animal again in the prescribed manner;
 - f. mark the animal clearly with his or her registered identification mark within 14 days if he is directed by the Registrar, an authorised person, an officer or a member of the South African Police Service where an identification mark on an animal is invisible or indistinct; and
 - g. notify the registrar in writing of any changes of his or her address.
2. No person shall—
 - a. dispose of or acquire an animal in any way unless such animals has been marked in the prescribed manner;
 - b. acquire any animal unless the person disposing of the animal furnishes the person acquiring the animal with a document of identification referred to in section 6 of the Stock Theft Act, 1959 (Act No. 57 of 1959); or

- c. sell or deliver an animal to or slaughter an animal at a slaughter facility unless such an animal has been marked in the prescribed manner.

8. Exemptions

1. An owner may, in the prescribed manner, apply for an exemption with regard to a specific type or group of animal.
2. The Registrar may by notice in the *Gazette* and on such conditions as he or she may specify in the notice, exempt an owner of a specific type or group of animal from the provisions of section 7 of the Act.

9. Transfer or cancellation of registration of identification marks

1. (1) Subject to the provisions of this Act, any owner of an animal may in the prescribed manner apply to the registrar for the transfer of the registration of an identification mark from the name of any other person into his or her name.
2. (2) Such application shall be accompanied by the consent in writing of the owner of the identification mark to the proposed transfer.
3. (3) Any person acquiring any animals from the estate of a deceased owner may apply within a prescribed period after the death of such owner to the Registrar for the transfer of the registration of such identification mark.
4. (4) If the application complies with the requirement of this Act, the registrar shall transfer the registration of the identification mark in question into the name of the applicant, and issue to him or her a certificate of registration of the identification mark in the prescribed form.
5. (5) If the registrar is satisfied that the owner of a registered identification mark is deceased and no application is made in terms of subsection (1) for the transfer of the registration of such identification mark the Registrar shall cancel the registration of such an identification mark.
6. (6) The owner of a registered identification mark may request the registrar in writing to cancel the registration of an identification mark, and upon receipt of such a request the registrar shall cancel such registration.

10. Fees payable in respect of registration of identification marks

The registrar shall not register any identification mark or transfer the registration of any identification mark unless the prescribed fee has been paid.

11. Registration of mark operators

1. (a) Any person who is in possession of marking instruments other than a marking instrument for the marking of his or her own registered mark, must apply to the registrar for registration as a mark operator in the prescribed form and pay the prescribed fee.

(b) A mark operator referred to in subsection (1) shall keep a register in the prescribed manner.
2. The registrar shall keep a register of mark operators.

12. Powers of entry, investigation and sampling

1. The executive officer or the assignee may, on the authority of a warrant issued in terms of subsection (2), at any time—
 - a. enter upon any place, premises or conveyance in or upon which any animal, carcass or hide of any animal or marking instrument or other instrument for marking animals and any certificate or document, register of mark operators in respect of which this Act applies, is or is upon reasonable grounds suspected to be upon such premises; and
 - b. clip or otherwise remove hair from any such livestock, carcass or hide in order to facilitate examination for identification marks;

- c. seize any thing found by him or her in respect of which he or she has reason to suspect that the provisions of this Ad have been contravened.
2. A warrant referred to in subsection (1) shall be issued by a judge of a High Court or by a magistrate who has jurisdiction in the area where the place or premises in question are situated, or where the conveyance is or will be and shall only be issued if it appears to the judge or magistrate from information on oath that there are reasonable grounds for believing that an article mentioned in subsection (1) is upon or in such place, premises or conveyance and shall specify which of the acts mentioned in subsection (1) may be performed thereunder by the arson to whom it is issued.
3. A warrant issued in terms of this section shall be executed by day unless the person who issued the warrant authorises the execution thereof by night at times which shall be reasonable, and entry upon and search of any place, premises or conveyance specified in such warrant shall be conducted with strict regard to decency and order, including—
 - a. a person's right to, respect for and protection of his or her dignity;
 - b. the right of a person to freedom and security; and
 - c. the right of a person to his or her personal privacy.
4. The relevant person referred to in subsection (1) executing a warrant in terms of this section shall immediately before commencing with the execution—
 - a. (a) identify himself or herself to the person in control of the place, premises or conveyance, if such person is present, and hand to such person a copy of the warrant or, if such person is not present, affix such copy to a prominent spot on the place, premises or conveyance; and
 - b. (b) supply such person at his or her request with particulars regarding his or her authority to execute such a warrant.
5. The relevant person referred to in subsection (1) may without a warrant enter any place, premises or conveyance and remove any article referred to in subsection (1) if—
 - a. the person who is competent to do so, consents to such entry; or
 - b. he or she upon reasonable grounds believes that—
 - i. the required warrant would be issued to him or her in terms of subsection (2) if he or she were to apply for such warrant; and
 - ii. the delay caused by obtaining such warrant would defeat the object of such warrant.
6. (a) The relevant person to in subsection (1) who may, on the authority of a warrant issued in terms of subsection (2), enter and search any place, premises or conveyance, may use such force as may be reasonably necessary to overcome resistance to such entry or search.

(b) No person may enter upon and search any place, premises or conveyance unless he or she has audibly demanded admission to the place, premises or conveyance and has notified the purpose of this or her entry, unless such person is upon reasonable grounds of the opinion that any article may be destroyed if such admission is first demanded and such purpose is first notified.
7. If, during the execution of a warrant of the conducting of a search in terms of this section, a person claims that an article found on or in the place, premises or conveyance in question contains privileged information and refuses the inspection or removal of such article, the relevant person referred to in subsection (1) executing the warrant or conducting the search shall, if he or she is of the opinion that the article contains information which is relevant to the investigation and that such information is necessary for the investigation or hearing, request the registrar of the High Court which has jurisdiction, or his or her delegate, to seize and remove that article for safe custody until a court of law has made a ruling on the question whether or not the information in question is privileged.

8. A warrant issued in terms of this section may be issued on any day and shall be of force until—
 - a. (a) it is executed; or
 - b. (b) it is cancelled by the person who issued it or, if such person is not available, by any person with similar authority; or
 - c. the expiry of one month from the date of its issue; or
 - d. the purpose for which the warrant was issued, no longer exists, whichever may occur first.
9. If no criminal proceedings are instituted in connection with any animal, carcass or hide of any animal or marking instrument or other instrument for marking animals and any certificate or document, register of mark operators seized under subsection (1), or if it appears that any animal, carcass or hide of any animal or marking instrument or other instrument for marking animals and any certificate or document, register of mark operators is not required at the trial for purposes of evidence or an order of court, that any animal, carcass or hide of any animal or marking instrument or other instrument for marking animals and any certificate or document, register of mark operators shall be resumed to the person from whom it was seized.

13. Appeal against decision of registrar

A person who feel aggrieved by any decision of the registrar may, within the period and in the manner prescribed and upon payment of the prescribed fees, appeal to the Minister against such decision.

14. Duties and powers of pound master

1. A pound master shall if any animal bearing a registered identification mark is impounded, in addition to any other notice which he or she may be required by law to give, forthwith and in the form determined by the registrar notify the owner of such brand, of the impoundment.
2. The pound master shall be entitled to include in the fees payable to him or her on the release or sale of the livestock the prescribed fee in respect of such notification.

15. Prohibited marking of livestock

1. No person shall—
 - a. mark any animals with an identification mark which is not registered;
 - b. mark any animal with a registered identification mark without the authorisation of the owner of such identification mark;
 - c. mark any animal with a registered identification mark other than in the prescribed manner;
 - d. mark any animal with an identification mark which is registered in the name of a person who is not the owner of the animal;
 - e. mark any animal with an identification mark which is not a prescribed identification mark in respect of the group to which the animal belongs; or
 - f. use more than one registered identification mark in respect of the same group of animals, unless the registration of all the identification marks was obtained legally.
2. The provisions of paragraphs (a), (c) and (e) of subsection (1) shall not apply in respect of—
 - a. the marking of animals in accordance with the rules or by-laws of the Stud Book Association or a livestock breeders' society as defined in section 1 of the Livestock Improvement Act, 1977 (Act No. 25 of 1977); or
 - b. the marking by the breeder thereof, of livestock which has been registered or recorded, as the case may be, with the said Association.

16. Offences

Any person who—

- a. is not a registered marking operator and has in his or her possession any marking instrument other than his or her own registered identification mark;
- b. is a marking operator and who fails to keep a register;
- c. has in his or her possession any animal marked not in accordance with or in a manner allowed by the provisions of this Act;
- d. alters, mutilates or cancels any identification mark on any animal;
- e. sells to any person any animal in which an identification mark has been altered, mutilated or cancelled;
- f. sells to any person, any animal of which an ear has been cut off;
- g. hinders or obstructs an officer or an authorised person or a member of the South African Police Service in the execution of his or her duties or the exercise of his or her powers under this Act;
- h. fails or refuses to produce, when required in terms of this Act by the registrar or a member of the South African Police Service to do so, any livestock or other thing in his or her possession or under his or her control;
- i. alters a certificate issued in terms of this Act;
- j. fails to comply with any provision of section 7;
- k. in any application made in terms of this Act, makes or causes to be made a statement which is false;
- l. falsely holds himself out to be the registrar or an authorised person;
- m. marks animals without being registered as a marking operator; or
- n. contravenes or fails to comply with any provision of this Act, shall be guilty of an offense and liable on conviction to a fine or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

17. Evidence, presumptions and onus of proof

In any legal proceedings a certificate or computer printout purporting to have been issued by the registrar regarding the registration or the transfer or cancellation of the registration of an identification mark in terms of this Act, or the ownership of a registered identification mark, or any other particulars contained in the register, shall upon production in such proceedings be *prima facie* proof of the facts certified therein.

18. Regulations

1. The Minister may make regulations regarding—
 - a. the size, shape, pattern and composition of prescribed identification marks;
 - b. the size, shape and construction of marking instruments;
 - c. the persons by whom, and the conditions under which, marking instruments may be made, repaired, altered and supplied;
 - d. the age which animals shall have attained before they may be marked;
 - e. the manner in which, the parts on which and the material with which animals shall or may not be marked;
 - f. the conditions on which an owner of animals may obtain the registration of more than one identification mark in respect of the same group of animals;
 - g. the fees payable in terms of this Act; and
 - h. generally such matters as are required for the better carrying out of the objects and purposes of this Act.
2. The Minister may make different regulations in respect of different kinds of identification marks, and different groups or species of animals, and different areas.

19. Brands provided for in other laws

1. Subject to the provisions of subsections (2) to (7) inclusive, the provisions of this Act shall be in addition to and not in substitution for the provisions of any other law not repealed by this

Act or the Livestock Brand Amendment Act, 1973, authorising or requiring the branding of livestock.

2. Any person or the holder of any office required by the Minister so to do, shall within the period specified by the Minister, submit to the registrar any mark with which any livestock are so authorised or required to be marked.
3. If the registrar is satisfied that such mark is not so similar to any registered mark as to be easily confused with or convertible into such mark, he or she shall register it free of charge in the prescribed manner.
4. If the registrar is not satisfied he or she shall submit the matter to the Minister, who may make such order as he or she may deem fit for the registration of the mark in-question or of another mark in its stead.
5. Upon registration of such other mark the use thereof shall be deemed to have been authorised or required, as the case may be, in terms of the relevant law instead of the mark in whose place it was place it was so registered.
6. If a mark is registered in terms of this section the other provisions of this Act shall not apply in respect thereof.
7. The use of any such mark in accordance with the law authorising or requiring its use, shall not preclude the owner of the livestock on which it is made or placed from marking or placing or retaining on such livestock another appropriate mark registered in his or her name.

20. Delegation of powers by Minister

The Minister may delegate to any officer of the department any of the powers conferred upon him or her by this Act, except the powers conferred by section 22.

21. Exemption of certain areas and livestock from provisions of Act

The Minister may from time to time by notice in the *Gazette* declare that the provisions of this Act shall apply in any area defined in such notice, or in respect of any group or kind of livestock specified therein.

22. Repeal of laws and savings

1. This Act shall apply to the whole of the national territory of the Republic.
2. Subject to the provisions of subsection (3) this Act shall repeal—
 - a. the Acts set forth in the Schedule to the extent specified in the third column thereof; and
 - b. any law relating to Livestock Brands which applied in the territory of any entity which prior to the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), possessed legislative authority with regard to the marking of animals.
3. A registration of a brand issued in terms of section 5 of the Livestock Brands Act, 1962 (Act No. 87 of 1962), which is in force immediately prior to the commencement of this Act shall be deemed to be a brand in his or her name which is registered in terms of section 6 of this Act.

23. Short title and commencement

This Act shall be called the Animal Identification Act,1998, and shall come into operation on a date determined by the President by proclamation in the *Gazette*.

SCHEDULE

LAWS REPEALED

| No. and year of Law | Title or subject | Extent of repeal |
|---------------------|------------------|------------------|
|---------------------|------------------|------------------|

| | | |
|----------------------------|--------------------------------------|-----------|
| Act No. 87 of 1962..... | Livestock Brands Act..... | The whole |
| Act No. 10 of 1973..... | Livestock Brands Amended Act..... | The whole |
| Act No. 10 of 1992..... | Livestock Brands Amended Act..... | The whole |