

TASMANIA

**ANIMAL (BRANDS AND MOVEMENT)
AMENDMENT BILL 2003**

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ANIMAL (BRANDS AND MOVEMENT) AMENDMENT BILL 2003

*(Brought in by the Minister for Primary Industries, Water
and Environment, the Honourable Bryan Alexander Green)*

A BILL FOR

An Act to amend the *Animal (Brands and Movement) Act 1984*

Be it enacted by His Excellency the Governor of Tasmania,
by and with the advice and consent of the Legislative
Council and House of Assembly, in Parliament assembled,
as follows:

Short title

1. This Act may be cited as the *Animal (Brands and
Movement) Amendment Act 2003*.

Commencement

2. The provisions of this Act commence on a day or days to
be proclaimed.

Principal Act

3. In this Act, the *Animal (Brands and Movement) Act
1984** is referred to as the Principal Act.

*No. 14 of 1984

Long title substituted

4. The Principal Act is amended by omitting the long title and substituting the following long title:

An Act to provide for the compulsory identification of cattle, sheep, pigs and other animals, the regulation of the movement of animals, a system of permanent identification of animals, and incidental and other purposes

Section 3 amended (Interpretation)

5. Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “certificate”:

“Chief Veterinary Officer” means the person holding office as Chief Veterinary Officer under the *Animal Health Act 1995*;

- (b) by omitting the definition of “pig”;

- (c) by omitting the definition of “tag” and substituting the following definition:

“tag”, as a noun, means a tag or label of a kind prescribed in the regulations or any other means of identification of animals and, as a verb, means to attach a tag to an animal.

Section 10 amended (Obligation to brand pigs before sale or before slaughter at premises other than those where they are kept by or on behalf of their owners)

6. Section 10 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “over 10 weeks of age” after “a pig”;
- (b) by omitting subsection (2) and substituting the following subsection:

(2) Notwithstanding subsection (1), a person –

- (a) may sell a pig that is not branded with the registered body-tattoo of which the owner of the pig is the proprietor or cause a pig that is not so branded to be sold; or
- (b) may send a pig that is not so branded, or cause a pig that is not so branded to be sent, to premises for the purpose referred to in paragraph (b) of that subsection –

if –

- (c) the pig was purchased by the owner and delivered to him or her by the previous owner within 7 days before the pig is sold or is sent to those premises for that purpose and at the time of delivery bore the registered body-tattoo of which the previous owner was the proprietor; or

- (d) the pig is tagged in accordance with the regulations.

Section 18 amended (Application of registered earmarks to cattle and sheep)

7. Section 18 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “The” and substituting “Subject to subsection (3A), the”;
- (b) by inserting the following subsection after subsection (3):

(3A) Subsection (3) does not apply to the marking of an ear of any cattle or sheep with a permanent identification device.

Section 21 amended (Provisions relating to branding of cattle, sheep, and pigs that are sold after being impounded)

8. Section 21(1) of the Principal Act is amended as follows:

- (a) by omitting “cattle, sheep, or pig” first occurring and substituting “pig over 10 weeks of age, cattle or sheep”;
- (b) by inserting “, unless the pig is tagged in accordance with the regulations” after “proprietor”.

Section 22FA inserted

9. After section 22F of the Principal Act, the following section is inserted in Division 1:

Minister may require permanent identification

22FA. (1) If the Minister is satisfied that the prescribed circumstances exist, the Minister may, by notice published in the *Gazette*, require a person to attach to, or insert in, an animal or class of animals a permanent identification device.

(2) A person must comply with a notice under subsection (1).

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 200 penalty units; and
- (b) an individual, a fine not exceeding 100 penalty units.

(3) A notice under subsection (1) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

(4) For the purposes of this section, the prescribed circumstances exist if –

- (a) the area containing an animal or class of animals has been declared to be a restricted area, a control area or a protected area under the *Animal Health Act 1995*; or
- (b) a body representative of a national animal farming industry has required that an animal or class of animals be marked with a permanent identification device; or
- (c) a body representative of a Tasmanian animal farming industry approves the

marking of an animal or class of animals
with a permanent identification device.

Section 24 amended (Powers of inspectors)

10. Section 24(2) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c) “inspector.” and substituting “inspector; and”;
- (b) by inserting the following paragraph after paragraph (c):
 - (d) take a sample of –
 - (i) the hide, skin, hair, wool, feather, shell, horn, fin or hoof of an animal; and
 - (ii) any urine, faeces, bone or blood of an animal; and
 - (iii) any secretion or excretion of an animal.

Section 25 amended (Offences)

11. Section 25 of the Principal Act is amended as follows:

- (a) by omitting paragraph (e) from subsection (1) and substituting the following paragraph:
 - (e) unless authorised under subsection (1A), mutilate, crop, slice, cut or mark the ears of any cattle or sheep, whether living or dead, except as provided by this

Act, or be in possession of any cattle or sheep, or the skins of any cattle or sheep, with ears so mutilated, cropped, sliced, cut or marked;

- (b) by omitting paragraphs (h), (i) and (j) from subsection (1) and substituting the following paragraphs:
 - (h) unless authorised under subsection (1A), remove an ear from a cattle skin or sheep skin, unless that ear is removed immediately before the skin is subjected to a tanning process of any kind;
 - (i) be in possession of a cattle skin or sheep skin from which an ear has been removed unless –
 - (i) that ear has been removed in the course of a tanning process of any kind; or
 - (ii) the person is authorised under subsection (1A); or
 - (j) unless authorised under subsection (1A), cause, procure, permit or assist in the doing of anything prohibited by this subsection.
- (c) by omitting from the penalty under subsection (1) “5” and substituting “10”;
- (d) by inserting the following subsection after subsection (1):

(1A) The Chief Veterinary Officer may authorise a person at licensed meat premises within the meaning of the *Meat Hygiene Act 1985* to perform an act in respect of a sheep or sheep skin that would, but for this subsection, constitute a breach of subsection (1)(e), (h), (i) or (j), if the Chief Veterinary Officer considers it necessary or desirable for determining the origin of that, or any other, sheep or sheep skin.

Part VIA inserted

12. After section 29 of the Principal Act, the following Part is inserted:

PART VIA – INFRINGEMENT NOTICES

Service of infringement notice

29A. (1) The Chief Veterinary Officer may serve an infringement notice on a person, other than a person under the age of 16 years, if of the opinion that the person has committed a prescribed offence.

(2) An infringement notice is not to relate to 4 or more offences.

Form of infringement notice

29B. (1) An infringement notice is to be in a form approved by the Chief Veterinary Officer and specify –

- (a) the offence to which it relates; and

- (b) the prescribed penalty and prescribed special penalty for that offence; and
- (c) the total amount payable; and
- (d) the place at which the penalty must be paid; and
- (e) any other prescribed details.

(2) An infringement notice is also to state that the person on whom it is served may disregard the notice but that, on doing so, he or she may be prosecuted for the offence to which the notice relates.

Acceptance of infringement notice

29C. A person may accept an infringement notice by –

- (a) paying the total amount payable within 21 days after being served with the notice; or
- (b) lodging at the place specified in the notice, within 21 days after being served with the notice, a written undertaking to pay the amount payable.

Extension of acceptance period

29D. If an infringement notice is not accepted before the period referred to in section 29C expires, a clerk of petty sessions may allow a further period of 14 days commencing on that expiry for the acceptance of the notice.

Payment

29E. (1) If a person undertakes under section 29C(b) to pay any amount payable under an infringement notice, a clerk of petty sessions may determine the period, not exceeding 60 days from the day on which the notice was served, within which the amount is to be paid.

(2) A person may make representations to a clerk of petty sessions in respect of the person's ability to pay the amount.

(3) A clerk of petty sessions is to take the person's representations into account before determining the period within which the amount is to be paid.

(4) If a person fails to pay any amount in accordance with an undertaking, the same proceedings may be taken against the person in respect of the amount remaining outstanding as if it were a penalty imposed on the person on summary conviction.

Payments to Consolidated Fund

29F. Any payments made in respect of an infringement notice are payable into the Consolidated Fund.

Effect of acceptance

29G. (1) The acceptance of an infringement notice is not an admission of liability in any civil proceedings.

(2) Proceedings against a person for an offence to which an infringement notice relates that has not been withdrawn must not be brought –

- (a) if the person accepts the infringement notice; or
- (b) within –
 - (i) 28 days after the notice was served, if the person has not been allowed a further period under section 29D; or
 - (ii) 42 days after the notice was served, if the person has been allowed a further period under section 29D.

Withdrawal of infringement notice

29H. (1) The Chief Veterinary Officer may withdraw an infringement notice served on a person if of the opinion that –

- (a) the infringement notice should not have been served; or
- (b) the person should be proceeded against for the offence to which the notice relates.

(2) An infringement notice may be withdrawn whether or not it has been accepted.

(3) An infringement notice is –

- (a) withdrawn by serving on a person a notice stating that the infringement notice has been withdrawn; and

- (b) taken to be withdrawn on the expiry of 108 days after service of the infringement notice.

(4) A clerk of petty sessions must repay to a person any amount paid by that person in respect of an infringement notice that is withdrawn.

Certain evidence not admissible

29I. Evidence of the service, acceptance or withdrawal of an infringement notice is not admissible in any proceedings for the offence to which the notice relates.

Section 33A inserted

13. After section 33 of the Principal Act, the following section is inserted in Part VII:

Delegation

33A. The Registrar may delegate any of his or her functions or powers under this Act other than this power of delegation.

Section 34 amended (Regulations)

14. Section 34(2) of the Principal Act is amended as follows:

- (a) by inserting the following paragraph after paragraph (d):
 - (da) requiring declarations, books and records relating to animals and

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carcases of animals to be
transported with those animals
and carcases;

- (b) by omitting from paragraph (e)(i) “cattle, sheep, or pigs” first occurring and substituting “animals”;
- (c) by omitting from paragraph (e)(i) “cattle, sheep, or pigs shall” and substituting “animals are to”;
- (d) by omitting from paragraph (e)(ii) “cattle or sheep” first occurring and substituting “animals”;
- (e) by omitting from paragraph (e)(ii) “cattle or sheep shall” and substituting “animals are to”.

Police Offences Act 1935 amended

15. Section 39A(1)(a) of the *Police Offences Act 1935* is amended by inserting “, unless the person is authorised under that Act to receive or possess such a skin” after “alteration”.