

REPUBLIC OF SOUTH AFRICA

ANIMAL IDENTIFICATION BILL

*(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill
published in Government Gazette No 22546 of 10 August 2001)
(The English text is the official text of the Bill)*

(MINISTER FOR AGRICULTURE AND LAND AFFAIRS)

[B 49—2001]

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BILL

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

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—
- “**animal**” means any animal declared by the Minister in terms of section 2; 5
 - “**authorised person**” means any person, other than an officer, who has been authorised by the registrar under section 3(3) to carry out a specific function in terms of this Act;
 - “**cancel**”, in relation to an identification mark, means any interference whereby that identification mark is rendered illegible or less legible; 10
 - “**document of identification**” means a document of identification referred to in section 6(1) of the Stock Theft Act, 1959 (Act No. 57 of 1959);
 - “**group**” in relation to animals, means a species, breed or kind of animal;
 - “**identification mark**” means any registered mark registered in terms of section 5(2) and placed on any animal for any purpose, and includes any representation of a mark intended to be placed on any animals, as the circumstances may require, but does not include any— 15
 - (a) mark made or placed on the horn or hoof;
 - (b) mark made with paint on any animal; or
 - (c) clasp, rivet or tag attached to the ear, or any mark made on such clasp, rivet or tag; 20
 - “**mark**” means to place an identification 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; 25
 - “**Minister**” means the Minister of Agriculture;
 - “**officer**” means an officer as defined in section 1(1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994), read with section 1 of the Public Service Amendment Act, 1996 (Act No. 13 of 1996); 30
 - “**owner**”, in relation to any registered identification mark, means the person or, in the case of the State, the Department in whose name such identification mark is registered;
 - “**police official**”, means any member of the service as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995), and “**police**” has a corresponding meaning; 35
 - “**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 Animal Identification in terms of section 3;

“**sale**”, includes an agreement to sell, and any offer, advertisement, exposure, transfer of ownership, conveyance or delivery for sale, exchange or disposal in any manner, whether for any consideration or otherwise, and “**sell**” has a corresponding meaning; 5

“**this Act**” includes any regulations made under section 18.

Application of Act

2. This Act applies—

- (a) in respect of the animals declared by the Minister by notice in the *Gazette*; and 10
- (b) to the whole of the national territory of the Republic of South Africa.

Designation of registrar

3. (1) The Minister must designate an officer in the national Department of Agriculture as the Registrar of Animal Identification, who must exercise the powers, perform the functions and carry out the duties conferred upon, assigned to or imposed on the registrar under this Act. 15

(2) The registrar must exercise his or her powers, perform his or her functions and carry out his or her duties subject to any instruction issued by the Minister.

(3) The registrar may in writing authorise any officer or, with the approval of the Minister, authorise any person who is not an officer, to perform any function entrusted to him or her in terms of this Act. 20

Identification marks

4. The Minister must prescribe identification marks in respect of each group of animals to which marks may be allocated in terms of section 5.

Application for registration of identification mark 25

5. (1) An application for registration of an identification mark must be made to the registrar in the prescribed manner and be accompanied by the prescribed fee.

(2) If the application complies with the requirements of this Act the registrar must—

- (a) allocate an identification mark to the applicant;
- (b) register such identification mark in the applicant’s name; and 30
- (c) issue to the applicant a certificate of registration of that identification mark.

Register of identification marks

6. The registrar must in the prescribed manner keep a register of all identification marks prescribed by the Minister in terms of section 4.

Duties of owners of animals 35

7. (1) Each owner of animals must—

- (a) apply for registration of an identification mark in terms of section 5(1);
- (b) mark his or her animals in the prescribed manner;
- (c) where an identification mark on an animal is invisible or indistinct, mark the animal clearly with his or her identification mark, within 14 days after he or she is directed to do so by the registrar, an authorised person, an officer or a police official; and 40
- (d) notify the registrar in writing of any changes of his or her address.

(2) No person may—

- (a) within 14 days of the date on which he or she becomes the owner of an animal with an identification mark, sell, barter, give away or in any other manner dispose of that animal to another person, unless he or she furnishes a document of identification to the person who acquires that animal; or 45
- (b) after 14 days of the date on which he or she becomes the owner of an animal, sell, barter, give away or in any other manner dispose of that animal unless— 50

- (i) such animal has been marked in the prescribed manner with the identification mark of the owner disposing of that animal; and
- (ii) he or she furnishes the person acquiring that animal with a document of identification.

(3) A person acquiring an animal from a person disposing of an animal as contemplated in subsection (2) must retain the document of identification obtained from that person for a period of one year. 5

Alternative methods of identification

8. (1) An owner may, in the prescribed manner, apply for an alternative method of identification. 10

(2) The registrar may specify alternative methods of identification by notice in the *Gazette*.

Transfer of registration of identification marks

9. Any owner of an animal may apply in the prescribed manner to the registrar for the transfer of the registration of an identification mark from the name of any other person to his or her name. 15

Fees payable in respect of registration of identification marks

10. The registrar may not transfer the registration of any identification mark contemplated in section 9 unless the prescribed fee referred to in section 5(1) has been paid. 20

Registration of marking operators

11. (1) (a) Any person who wants to mark animals other than his or her own animals for financial gain must apply in the prescribed manner to the registrar for registration as a marking operator, and pay the prescribed fee.

(b) If the applicant complies with the prescribed requirements, the registrar must register him or her as a marking operator. 25

(c) A marking operator must in the prescribed manner keep a register of animals marked by him or her.

(2) The registrar must in the prescribed manner keep a register of marking operators.

Powers of entry, investigation and sampling 30

12. (1) The registrar may appoint any officer, or, with the approval of the Minister, any person who is not an officer, as an inspector to exercise the powers and perform the functions referred to in subsection (4).

(2) Every inspector must be furnished with a certificate signed by the registrar stating that he or she has been appointed as inspector under this Act. 35

(3) An inspector must, at the request of any person affected by the exercise of a power or performance of a function by such an inspector, exhibit the certificate referred to in subsection (2) to such a person.

(4) An inspector may, on the authority of a warrant issued in terms of subsection (5), conduct an investigation to determine whether the provisions of this Act are being or have been complied with, and may, for that purpose during normal office hours and without giving prior notice— 40

(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, or any certificate or document, or register of marking operators in respect of which this Act applies, is or is upon reasonable grounds suspected to be; 45

(b) clip or otherwise remove hair from any such animal, carcass or hide in order to facilitate examination for identification marks; and

(c) seize any animal or object found in respect of which he or she has reason to suspect that this Act has been contravened.

(5) (a) A warrant referred to in subsection (4) must be issued by a magistrate who has jurisdiction in the area in which the place or facility in question is situated, and may only be issued if it appears from information on oath that there are reasonable grounds to believe that any material, substance, appliance, book, statement or document that may relate to a contravention of this Act is in or upon such place or facility. 5

(b) A warrant issued in terms of this section must be executed with strict regard to decency and order.

(6) (a) If no criminal proceedings are instituted in connection with any item referred to in subsection (5)(a), seized in terms of subsection (4), or if it appears that such item is not required at any trial for the purpose of evidence or an order of court, that item must be returned as soon as possible to the person from whom it was seized. 10

(b) After the conclusion of criminal proceedings any item seized in terms of subsection (4) and which served as an exhibit in proceedings in which a person was convicted, must be handed over to the inspector to be destroyed or otherwise dealt with as instructed by the registrar. 15

Appeal against decision of registrar

13. A person whose interests are affected by any decision or direction 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. 20

Duties and powers of pound master

14. If any animal bearing an identification mark is impounded, the pound master must follow the prescribed procedures.

Prohibited marking of animals 25

15. (1) No person may—

(a) mark or allow an animal to be marked with a mark which is not an identification mark;

(b) mark or allow an animal to be marked with an identification mark without the authorisation of the owner of such identification mark; 30

(c) mark or allow an animal to be marked with an identification mark otherwise than in the prescribed manner;

(d) mark or allow an animal to be marked with an identification mark which is registered in the name of a person who is not the owner of the animal;

(e) mark or allow an animal to be marked with an identification mark which is not a prescribed identification mark in respect of the group to which the animal belongs; or 35

(f) use more than one identification mark in respect of the same group of animals, unless the registration of all the identification marks was obtained in terms of this Act. 40

(2) Paragraphs (a), (c) and (e) of subsection (1) do not apply in respect of—

(a) the marking of animals in accordance with the rules or by-laws of an animal breeders' society or registering authority as defined in section 1 of the Animal Improvement Act, 1998 (Act No. 62 of 1998); or

(b) the marking by the breeder thereof, of an animal which has been registered or recorded, as the case may be, with the South African Studbook and Livestock Improvement Association. 45

Offences

16. Any person who—

(a) is a marking operator and who fails to keep a register in terms of section 11(1)(c); 50

(b) has in his or her possession an animal marked not in accordance with or in a manner allowed by this Act;

- (c) alters, mutilates or cancels an identification mark on an animal;
 - (d) sells to any person an animal on which an identification mark has been altered, mutilated or cancelled;
 - (e) sells to any person an animal of which an ear has been cut off;
 - (f) hinders or obstructs an officer or an authorised person or a police official in the execution of his or her duties or the exercise of his or her powers under this Act; 5
 - (g) fails or refuses to produce, when required in terms of this Act by the registrar or a police official to do so, any livestock or other thing in his or her possession or under his or her control; 10
 - (h) alters a certificate issued in terms of section 5(2)(c);
 - (i) fails to comply with or contravenes any provision of section 7;
 - (j) in any application made in terms of this Act, makes or causes to be made a statement which is false;
 - (k) falsely holds himself or herself out to be the registrar or an authorised person; 15
or
 - (l) marks animals for financial gain without being registered as a marking operator,
- is guilty of an offence 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. 20

Evidence

17. 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 an identification mark, or any other particulars contained in the register, shall upon production in such proceedings be *prima facie* proof of the facts stated in it. 25

Regulations

18. (1) The Minister may make regulations regarding—
- (a) the size, shape, pattern and composition of identification marks;
 - (b) the size, shape and construction of marking instruments; 30
 - (c) the age which animals must have attained before they must be marked;
 - (d) the manner in which, the parts on which and the material with which animals shall or may not be marked;
 - (e) 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; and 35
 - (f) any matter that may or must be prescribed in terms of this Act.
- (2) The Minister may make different regulations in respect of different kinds of identification marks, different groups of animals and different areas.

Brands provided for in other laws

19. The provisions of this Act are in addition to and not in substitution for the provisions of any other law. 40

Delegation of powers by Minister

20. The Minister may delegate to any officer of the national Department of Agriculture any of the powers conferred upon him or her by this Act, except the powers conferred by sections 18 and 21. 45

Exemption of certain areas and animals from provisions of Act

21. The Minister may from time to time by notice in the *Gazette* declare that certain provisions of this Act shall not apply in any area defined in such notice, or in respect of any group or type of animal specified therein.

Repeal of laws and savings 50

22. (1) Subject to subsection (2) this Act repeals—

- (a) the Acts in the Schedule; 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.

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(2) A brand allocated in terms of section 5(2) of the Livestock Brands Act, 1962 (Act No. 87 of 1962), which is in use immediately prior to the date of commencement of this Act is deemed to be an identification mark allocated in terms of section 5(2)(a).

Short title and commencement

23. This Act is called the Animal Identification Act, 2001, and comes into operation on a date determined by the President by proclamation in the *Gazette*. 10

SCHEDULE**LAWS REPEALED**

NO. AND YEAR OF LAW	TITLE OR SUBJECT
Act No. 87 of 1962	Livestock Brands Act
Act No. 10 of 1973	Livestock Brands Amendment Act
Act No. 10 of 1992	Livestock Brands Amendment Act

MEMORANDUM ON THE OBJECTS OF THE ANIMAL IDENTIFICATION BILL

1.1 The national Department of Agriculture is responsible for the administration of the Livestock Brands Act, 1962 (Act No. 87 of 1962) (“the current Act”). The current Act provides for the law relating to the branding of livestock and for matters incidental thereto. The draft Animal Identification Bill proposes to repeal the current Act. With farmer friendly legislation in mind, it was decided to draft a whole new Act, rather than to amend the current Act. The proposed Bill was drafted to deal with practical problems experienced with the current Act.

1.2 The current Act provides for a legal and uniform identification system for most farm animals. The advantages of identifying animals are, *inter alia*, the following:

- * Permanent and visible marks on animals act as a deterrent as stock thieves are more inclined to steal unmarked animals;
- * A uniform identification system makes positive identification of stolen or strayed animals possible;
- * A uniform identification system makes proof of ownership possible;
- * The identification of animals significantly contributes to more effective policing, which results in an improved recovery rate of lost and stolen animals and an increase in the number of stock thieves apprehended and convicted.

1.3 The national Department of Agriculture maintains an open and consultative approach in the application of the current Act, as the successful implementation of the legislation is largely dependent on inputs from all the sectors of animal husbandry in the country. The current Act was reviewed on a regular basis in order to ensure its efficacy as an identification system and as an aid to the stockowner in the prevention of stock theft. The Department also liaises regularly with the Stock Theft Unit of the South African Police Service as this Unit is instrumental in the combating of stock theft. In this manner certain problems that are being experienced with the current Act came to the Department’s attention. The most critical problems to be addressed by the Bill are the following:

- * **The name of the Act:** Although the term “brand” refers to both tattooing and branding, the general perception is that “brand” only refers to hot iron and freeze branding. “Identification” is therefore a more suitable term.
- * **The marking of pre-weaners:** The current Act only provides for the branding of cattle, while there is a movement to tattoo cattle under the age of two teeth. Feedlots have a problem with the current legislation since the branding of weaners reduces the value of the hides. Alternative forms of identification of animals will be possible under the Bill.
- * **Registration of marking operators:** The Bill introduces a more effective method of control over people marking animals and determines that these people should be trained and registered.
- * **The marking of cross-border animals with a country mark:** Stock theft is a regional problem and a system has been suggested for more effective monitoring via country identification marks.
- * **Optional identification methods:** A number of requests were received regarding the use of optional identification methods such as microchips, transponders and DNA testing. Although hot iron branding and tattooing are the cheapest and generally the most effective way of identifying livestock, provision must be made for the development of alternative identification in the future.

2. PERSONS CONSULTED

The proposed Bill was published in the *Government Gazette* for general public comment. One workshop on national level and workshops in all nine provinces were held on the Bill. The following persons were also consulted:

- * Agriculture, Conservation and Environment Committee
- * Agricultural Research Council
- * Agri SA

- * Livestock Welfare Co-ordinating Committee
- * National African Farmers' Union
- * National Council of Societies for the Prevention of Cruelty of Animals
- * National Emerging Red Meat Producers' Organisation
- * National Woolgrowers' Association
- * Red Meat Producers' Organisation
- * Skin, Hide and Leather Council
- * South African Federation for Livestock Auctioneers and Meatbrokers
- * South African Feedlot Association
- * South African Police Service
- * South African Studbook and Livestock Improvement Association
- * Taurus Co-operative

3. FINANCIAL IMPLICATIONS FOR STATE

There will be no additional financial implications for the State as the infrastructure is already in place and the computer software for the animal identification system has already been developed.

4. PARLIAMENTARY PROCEDURE

The State Law Advisers and the National Department of Agriculture are of the opinion that this Bill must be dealt with in accordance with section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.

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