

PROCLAMATIONS.

**PROCLAMATION.<sup>1, 2</sup>**

BY

HIS EXCELLENCY THE HIGH COMMISSIONER.

**No. 7, 1907.—DATED 28th FEBRUARY, 1907.**

**Preamble.**

WHEREAS it is expedient to provide for the registration of Brands within the Bechuanaland Protectorate:—

Now, therefore, under and by virtue of the powers in me vested, I do hereby declare, proclaim and make known as follows:—

**Definition of terms.**

1. In this Proclamation unless the context otherwise requires the following terms shall have the meanings herein respectively assigned to them, that is to say:—

“Brand” shall mean the impression of any letter, sign or character branded upon any horse, cattle or ostrich, and the impression of any letter, sign or mark branded on the body of any sheep or goat, or made upon the wool of any sheep or goat by pitch, paint, tar or other substance.

“Brand Directory” shall mean the authorised list of brands compiled by the Registrar and published by authority.

“Cattle” shall mean any bull, cow, ox, heifer, steer or calf.

“Fees” shall mean any fees, rates or charges which any person may be liable to pay under this Proclamation or any regulations made in pursuance thereof.

“Horse” shall mean any horse, mare, gelding, colt, filly, ass or mule.

“Proprietor” shall mean the registered proprietor of any brand.

“Registrar” shall mean the Registrar of Brands appointed for the purposes of this Proclamation.

“Similar Brand” shall mean a brand so like another brand as to be likely to be mistaken for it.

**High Commissioner may appoint a Registrar and Deputy Registrars of Brands.**

2. The High Commissioner may from time to time appoint and may suspend or remove when appointed:—

(1) A Registrar of Brands for the Bechuanaland Protectorate;

(2) Deputy Registrars for any districts thereof who shall be subordinate to the Registrar for the purposes of this Proclamation;

and may from time to time determine the place or places at which shall be situate the Office of the Registrar or Deputy Registrars and the areas within which Deputy Registrars shall exercise their powers and duties.

**Registrar to keep separate registers.**

3. The Registrar shall keep separate registers for the registration of brands of:—

<sup>1</sup> See Proclamation No. 4 of 1913.

<sup>2</sup> See Proclamation No. 9 of 1929.

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- (1) Horses ;
- (2) Cattle ;
- (3) Sheep and goats ;
- (4) ●striches.

**Applications for registration of brands.**

4. Every owner of such animals or ostriches as are referred to in the last preceding section may deposit the prescribed fees and make application in writing to the Registrar or the Deputy Registrar of the district in which he resides to be registered as the proprietor of a brand ; such brands may be separate in respect of any one or more of such class of animals or ostriches.

**Registrar to send certificate of receipt of applications.**

5. The Registrar or Deputy Registrar upon receiving any such application and upon payment of the prescribed fees shall send to the applicant a certificate of such receipt.

**Applications to be rejected in certain cases.**

6. If at the time when the Registrar shall receive any such application as is mentioned in section *four* there shall already be in the register any identical or similar brand or if the registration of any brand applied for is prohibited by this Proclamation, or by any regulation made hereunder, the Registrar shall forthwith return to the applicant the fees deposited and give notice in writing to the applicant of the reason for rejecting his application.<sup>1</sup>

**Applications not liable to rejection to be recorded, and notices to be displayed in every district.**

7. The Registrar, upon the receipt of any application not liable to rejection as aforesaid and upon payment of the prescribed fees shall cause an entry thereof to be made in a book to be kept for that purpose ; and he shall cause notices setting forth the name and residence of the applicant and the description of his brand to be displayed for at least one month in some public place or places in every district.

**Brand to be registered if no application for similar one received within one month.**

8. If within one month of the issue of the notices aforementioned no application shall have been made by any other person for the registration of the same or a similar brand, the brand notified shall be deemed to be the brand of the applicant and he shall be registered accordingly as the proprietor thereof.

**If applications for registration of similar brand be received Registrar to give notice in writing.**

9. (1) If within one month of the issue of the said notices one or more other applications shall have been received by the Registrar of Brands for the registration of the same or a similar brand, he shall cause notice to be given in writing to every applicant describing such application and call upon the applicants within two months from the date of such notice to arrange such modifications of their proposed brands that they shall no longer be identical with or similar to each other.

**Registrar may make modifications of brands if applicants fail to do so.....**

(2) Unless the applicants shall within the said two months or within such further time as may be allowed, agree upon and communicate in writing to the Registrar modifications approved by him, the Registrar may make

<sup>1</sup> As to the registration of brands which are similar to any registered in the Union of South Africa see H.C. Notice 35 of 1925.

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such modifications as he may deem necessary in all or any of the proposed brands.

**Notice of modification to be given.**

(3) The Registrar shall give notice of any such modification to the several applicants and thereupon register the several applicants as the proprietors of the respective brands as modified and settled by him.

**Registrar to issue certificate of registration.**

10. The Registrar shall forward to every applicant a certificate of registration as soon as the registration shall be completed.

**District sign to form part of every brand within such area.**

11. The letter sign or character prescribed by regulations for any district or group of districts shall form part of every brand registered for the area in which such letter sign or character refers.

**If brand other than letters or numerals owner to pay for type.**

12. If any brand shall contain any form or designation other than letters or numerals such brand shall not be registered until the applicant shall have defrayed the cost of preparing a type or block of such brand.

**Brand Directory to be compiled annually.**

13. As soon as may be after the 31st day of December in each year the Registrar shall compile a Brand Directory containing a correct and complete list of all registered brands and of names and residences of all proprietors registered up to date.

**Right to registered brand may be ceded by owner.**

14. Any registered proprietor may cede and transfer his right to any registered brand to any other person in such form as may be prescribed; such transfer shall only have validity when registered by the Registrar upon payment of such fee as may be prescribed. Every person receiving such cession and transfer shall after due registration thereof be entitled to a certificate thereof under the hand of the Registrar.

**Penalty for making use of another's brand without his consent.**

15. Any person not being the registered proprietor of any brand in any district and not acting with the authority of such proprietor who shall impose or cause to be imposed upon any horse, cattle, sheep, goat or ostrich as the case may be, any such registered brand shall be liable upon conviction to a fine not exceeding £10, and in default of payment, to imprisonment, with or without hard labour for any term not exceeding one month.

**Registrar's certificate shall be accepted as evidence of ownership of brand in cases of stock theft.**

16. On the trial of any person for the theft of any horse, cattle, sheep, goat, or ostrich, or for receiving such horse, cattle, sheep, goat, or ostrich, or any part, or portion thereof, knowing the same to have been stolen, it shall be competent for the prosecution to give evidence that the brand upon the animal, or ostrich, alleged to have been stolen, is the registered brand of the person alleged to be the owner of such animal, or ostrich, or of some person through, or from whom such owner derived his right to such animal, or ostrich, and a certificate under the hand of the Registrar shall constitute *prima facie* evidence of the facts therein stated.

**Onus of proof of being in lawful possession shall in case of theft be on person found in possession of stock branded with registered brand.**

17. On the trial of any such person as aforesaid who shall have been apprehended in possession of any animal, or ostrich, branded with any regis-

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tered brand upon proof being given of the ownership of such animal or ostrich, and that a theft thereof has been committed, the onus of proof that such animal or ostrich was lawfully in his possession or of satisfactorily accounting for such possession shall be upon the person charged.

**High Commissioner may make regulations.**

18. The High Commissioner may from time to time make, amend, alter, or repeal, such regulations as may be necessary for the proper carrying out of the provisions of this Proclamation and more especially may prescribe:—

- (1) The forms in which applications for and certificates of registration shall be made;
- (2) The form and manner of giving any notice required but not specially provided for by this Proclamation;
- (3) The form in which any transfer or cession of the right to any registered brand shall be effected;
- (4) The size of any brands entitled to registration the portions of the body on which animals of the several classes or ostriches shall respectively be branded, and the order in which different brands shall be imposed;
- (5) The fees to be paid under the provisions of this Proclamation; and may by such regulations prescribe penalties for any breach thereof not exceeding five pounds sterling, or in default of payment of such fine, to imprisonment with or without hard labour for any term not exceeding fourteen days.

**Commencement of Proclamation.**

19. This Proclamation shall have force and effect from the date of its publication in the *Gazette*.

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