

EAST AFRICA PROTECTORATE.

AN ORDINANCE

No. 12 OF 1907.

TO MAKE PROVISION FOR THE REGISTRATION OF BRANDS OF STOCK. Title.

[12th December, 1907.] Date.

WHEREAS it is expedient to make provision for the registration of brands for stock :

BE it enacted by the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof :—

1. This Ordinance may be cited as “The Branding of Stock Ordinance 1907” and shall come into force on the first day of January, 1908. Short title.

2. In this Ordinance unless inconsistent with the context :—

Interpretation of
terms.

“Brand” shall mean a brand duly registered under this Ordinance and made upon any portion of the hide of any stock in manner prescribed by this Ordinance ;

“Branding iron” shall mean the instrument prescribed for imprinting a brand or mark on stock by this Ordinance or the rules made under it ;

“Branding instrument” shall mean any other instrument or tool by which any mark or symbol can be impressed, imprinted or cut on any portion of any stock ;

“Branding Directory” shall mean an authorised list of brands compiled by the Registrar of Brands and published by the Government ;

“Governor” shall mean the Governor of the East Africa Protectorate ;

“Distinctive Mark” shall mean a lawful mark (other than a registered brand) which a native is empowered by this Ordinance to mark upon any stock ;

“Stock” shall mean horses, cattle and ostriches ;

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

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

“Inspector” shall mean any person empowered to act as an Inspector of Brands under this Ordinance ;

“Native” shall mean any native of Africa not of European or American origin ;

“Imprisonment” shall mean imprisonment with or without hard labour ;

“Register” shall mean the register book kept in pursuance of this Ordinance containing a list of brands for stock registered hereunder ;

“Registrar” shall mean the Registrar of Brands ;

“Regulations” shall mean the Regulations framed by the Governor under this Ordinance ;

“Residence” shall mean the residence, house, homestead or dwelling of the owner of any brand or stock ;

“Holding” shall mean any farm or other place where stock is kept ;

“District Commissioner” shall include “Assistant District Commissioner.”

ADMINISTRATION.

Registrar and
Inspectors of
Brands.

3. It shall be lawful for the Governor to appoint an Officer in the Department of Agriculture who shall be called the Registrar of Brands and whose office shall be in Nairobi, and such persons as he may think fit from time to time to be Inspectors of Brands. Every Provincial Commissioner, District Commissioner and European Police Officer of or above the rank of Inspector shall be ex-officio an Inspector of Brands.

Register Book.

4. The Registrar shall keep a register in the Form of Schedule “A” hereto of all brands allotted under the provisions of this Ordinance.

Application for
brand.

5. Any person other than a native requiring a brand shall deliver or transmit to the Registrar an application in the Form of Schedule “B” hereto accompanied by a fee of five rupees for the registration of a brand ; if no special combination is applied for, the Registrar, if satisfied that such application is in conformity with the provisions of this Ordinance, shall allot to such applicant in the order in which his application is received the first unallotted brand standing in the Register for the district in which the holding is situated on which the brand is to be used and shall register the said brand to such applicant accordingly in the Form of Schedule “A” hereto annexed.

Provided always that it shall be lawful for the Registrar at the request of the owner as aforesaid to allot another combination standing vacant in the register for the same district : Provided further that it shall not be necessary for a person who owns or occupies land in more than one district to register a separate brand in respect of each district. Such person may elect any one of the districts in which he intends to use such brand and may use the brand registered in respect of that district in any other district in which he shall keep stock.

Certificate.

6. Upon the registration of any brand as aforesaid the Registrar shall deliver or transmit to the applicant to whom such brand is allotted a certificate of the registration thereof in the Form of Schedule “C” hereof.

Form of registered
brand.

7. Save as otherwise provided by this Ordinance every registered brand shall consist of two letters and one numeral of plain and uniform pattern in an even and regular line, and the first of the letters shall indicate the district or sub-district in which the holding is situated on which the brand is to be used : Provided that any person wishing to register his present brand may do so on condition that it has not already been applied for and that the dominant letter of the district is added.

Number of brands
allotted to an
application.

8. One brand and no more shall be allotted to any person in any one district.

The size of the characters branded on horses and ostriches shall not be less than one and a half inches, on cattle two and a half inches.

How brands are to
be imprinted.

9. All brands shall be imprinted on stock as follows :—

(1) In the case of cattle—

(a) The first brand shall be imprinted on the near side of the neck of the animal, and every second or subsequent brand shall (where there is space sufficient for the purpose) be imprinted on the same part of such animal and at a distance of not less than one and a half inches from and directly underneath the brand imprinted according to the table herein set forth ;

(b) Where there is not sufficient space for the purpose then such second or subsequent brand shall be imprinted on the part of such animal next in order according to the following table :—

1. Off side of neck.
2. Near shoulder.
3. Off shoulder.
4. Near rump (or thigh).
5. Off rump.

(2) In the case of horses—

The first brand shall be imprinted either on the near side of the neck or near rump of such horse and any second or subsequent brand on that part of such animal herein mentioned at the distance stated in the preceding Sub-section and next in order as defined in that Sub-section paragraph *b* (1), (2), (3) and (5).

(3) In the case of ostriches—

The first brand shall be imprinted on the near thigh, and every second or subsequent brand shall (when there is space sufficient for the purpose) be imprinted on the same part and directly underneath the last brand, and where there is not sufficient space for the purpose then on the off thigh.

10. The Registrar shall at the end of each quarter of every year or as soon thereafter as possible transmit for publication in the "Gazette" a statement in the Form of Schedule "A" hereto of all brands registered under this Ordinance during such quarter with the name and addresses of their respective owners.

Publication in
"Gazette" of
registered brands.

11. From such quarterly publications the Registrar, as soon as possible after the 31st day of December in each year, shall cause a Brand Directory containing all the brands which stand registered up to that date to be compiled and published in the form of the said publications; and he shall cause a copy thereof to be forwarded as soon as possible after publication to the Inspector General of Police, every Inspector of Brands, Poundmaster and Post Office.

Animal Brand
Directory.

12. The person wishing to transfer his right to any registered brand and the person intending to become the transferee thereof shall sign a document in the Form of Schedule "D" and shall transmit it to the Registrar with a fee of ten Rupees who may on receipt thereof cancel the registration of the said brand standing in the name of the transferor and register such brand in the name of the transferee, and such transferee shall thereafter be deemed to be the person having the exclusive right to use such brand as aforesaid; the Registrar may return the fees and decline to register the transfer; provided that on the sale of a holding if the owner does not sell the whole of the stock bearing his brand to the purchaser the Registrar shall not transfer to the purchaser of such holding.

Transfer of
registered brands.

The Registrar shall keep a book in which all transfers, surrenders and cancellations of brands shall be recorded, and the Registrar shall notify the same at the end of every quarter in the "Gazette" immediately following the quarterly statement of brands registered.

13. The owner of any brand may surrender the same and the Registrar shall on receipt of notice thereof cancel the registration.

Surrender of brands.

14. When it appears to the Registrar upon the report of an Inspector or otherwise that a registered brand is not in use he may cause notice to be given to the owner thereof calling upon him to show cause why the same should not be cancelled; and if cause is not shown to the satisfaction of the Registrar within six months after such notice he may cancel the brand.

Disused brands.

15. No brand which has been surrendered or cancelled shall be reallocated until a period of five years from such surrender or cancellation has elapsed.

Interval before
reallocation.

16. In every case in which there shall be a sale or transfer of any cattle branded with a brand registered under this Ordinance other than a reversed brand by a non-native to a native, it shall be the duty of such non-native to immediately brand each head of cattle so sold or transferred with the reverse of his registered brand.

On the sale of
cattle by non-native
to a native the
vendor must brand
cattle with his
registered brand
reversed.

Penalty.

Any person failing to comply with the provisions of this Section shall be liable on conviction to a fine not exceeding seven hundred and fifty Rupees and in default of payment to imprisonment for a term not exceeding three months.

All brokers or auctioneers must register a brand.

17. Every broker or auctioneer of stock shall deliver or transmit to the Registrar an application in the Form in Schedule "F" hereto, accompanied by a fee of five Rupees, for the registration of an auctioneer's brand.

Form of auctioneer's brand.

The Registrar shall allot to every such applicant and shall register a brand which shall consist of such device as the Registrar shall determine to be the common mark of all auctioneer's brands and such one letter and one numeral as shall identify the brand of each particular auctioneer or firm of auctioneers.

Auctioneers to brand cattle the property of a non-native which he may sell to a native. The cost of branding to be paid by the vendor.

18. It shall be the duty of a broker or auctioneer to immediately cause to be branded with his registered brand all cattle the property of a non-native which he may sell to a native. A broker or auctioneer may deduct from the purchase price the sum of twenty-five cents in respect of each head of cattle so branded.

Penalty for breach of Section 18.

19. Any person who shall fail to comply with the provision of the first paragraph of the preceding Section shall be liable on conviction to a fine not exceeding seventy-five Rupees in respect of each head of cattle with regard to which he shall have failed to comply with these provisions.

The Registrar to register a brand for every public pound.

20. The Registrar shall allot a brand to every public pound already or hereafter established and shall register the same. The first character of every such brand shall be a diamond and the second the dominant letter of the district and the third a numeral, the whole to be in one line, and the Poundmaster or other person in charge of a pound shall on the sale of any stock impounded therein brand the same with such brand, and any Poundmaster or other person in charge of a pound who shall fail to comply with the provisions of this Section shall on conviction be liable to a fine not exceeding seven hundred and fifty Rupees and in default of payment to imprisonment for any term not exceeding six months.

The Poundmaster must brand all stock sold out of pound.**Brands of the Veterinary Department to be registered.**

21. The Chief Veterinary Officer may register any brand or brands to be used for the purposes of the Veterinary Department on any stock. Such brand or brands may be of any device, provided it is easily distinguishable from any other brand registered under this Ordinance, and may be lawfully used for the purposes of the Veterinary Department on any stock by any person or persons authorised by the Chief Veterinary Officer.

Natives may use distinctive marks to identify the ownership of stock provided that such marks are unlike any registered brand.

22. Nothing in this Ordinance shall be deemed to make it an offence for a native to mark any stock of which he is the owner with a distinctive mark to identify the ownership of such stock, provided that neither letters nor figures form any part of such distinctive mark and that such mark is dissimilar to any registered brand.

The Registrar may prohibit the use of certain distinctive marks.

23. It shall be lawful for the Registrar to prohibit the use by any native of a distinctive mark which in his opinion is similar to any registered brand.

Any native who shall mark any stock with a distinctive mark so prohibited shall on conviction be liable to imprisonment for a term not exceeding six months and his stock so marked may by the order of the Court be confiscated.

MISCELLANEOUS.**The dominant letters of districts to be applied to the brands registered therein.**

24. The dominant letter of a brand registered in any district or sub-district shall be that prescribed in Schedule "G" hereto. Provided however the Governor may by Proclamation in the "Gazette" prescribe that some mark or design other than a letter shall be used to signify any district.

The Governor may by Proclamation add any district or sub-district to the said Schedule and may prescribe the dominant letter or mark to be applied to brands registered in such district or sub-district, or may remove any district or sub-district from the Schedule.

Butchers' and dealers' books.

25. Every butcher, poundmaster and auctioneer shall keep a separate book open at all times to inspection by any Inspector of Brands and shall therein truly enter the brands cut or imprinted on every animal slaughtered or sold by him.

Any such person who shall slaughter or dispose of any animals on whose hide any brand cut or imprinted under the provisions of this Ordinance shall appear to have been altered, blotched or defaced, without first reporting the matter in writing to the nearest Inspector of Brands and for 48 hours thereafter, shall on conviction be liable to a fine not exceeding seventy-five rupees per head for every animal so unlawfully slaughtered or disposed of, or to imprisonment for any term not exceeding three months.

26.—(1) Any person who shall slaughter or cause to be slaughtered any stock for sale shall retain or cause to be retained in his possession the hides taken off such animals with the brands or ear marks attached thereto without any alteration, disfiguration or effacement of the brands or marks on such hides or ears for the period of five days. Preservation of hides.

(2) Any Inspector of Brands or Police Officer may within the period of time mentioned in the last preceding Sub-section demand an inspection of such hides, and upon demand being made the aforesaid person shall produce the same for inspection by the said Inspector of Brands or Police Officer.

(3) Any person contravening any of the provisions of this Section shall be liable upon conviction to a fine not exceeding three hundred and seventy-five rupees and in default of payment to imprisonment for a period not exceeding three months ; or to both such fine or such imprisonment.

27. Every Inspector of Brands or Police Officer is hereby empowered to enter on or into any part of any holding or place throughout the Protectorate where stock is kept and to inspect any stock, hides, branding irons or brand and compare the same with the brand certificate and diagram which shall be produced to him ; and every such Inspector of Brands or Police Officer may seize any stock and any hides in respect of which the owner has committed any breach of this Ordinance and any branding instrument and any certificate in his possession and may take them before the nearest Magistrate. Any person hindering or impeding any such Officer as aforesaid in the execution of his duty or attempting so to do or refusing to produce any branding iron instrument or certificate or to permit such Officer to inspect any stock shall for every such offence upon conviction be liable to a fine not exceeding one thousand rupees or to imprisonment not exceeding six months or to both. Inspector may enter any building or place where stock is kept.

28. Every Inspector of Brands (other than a Police Officer) shall keep a copy of the latest issue of the Brands Directory and a copy of such "Gazette" containing the quarterly statement of registered brands not included in such Directory and shall on receipt of a fee of one rupee permit search therein at all reasonable hours. District Commissioner and other Officials to keep copies of Brands Directory and Gazette containing statements of registered brands.

29. It shall be lawful for the Governor from time to time to make rules prescribing— Regulations.

- (1) The shape and pattern of branding irons and other marking instruments ;
- (2) The persons by whom branding irons and branding instruments may be manufactured and sold ;
- (3) The fees and prices payable and forms to be used for any object or purpose that may be deemed necessary for the efficient administration of this Ordinance.

30. Where under the provisions of this Ordinance it may be necessary to give or send any notice the same may be given in any of the following ways :— Notice how given.

- (1) Personally upon the person to whom the notice is addressed ;
- (2) By registered letter sent through the post and directed to the last known place of abode or business in the Protectorate of such person ;
- (3) By inserting the notice once in the "Official Gazette."

31. From and after the passing of this Ordinance any person who shall make or offer for sale any branding instrument or tool adapted for the purpose of imprinting marks on stock except in accordance with this Ordinance and the regulations thereunder and similar to or resembling in pattern and size those prescribed under this Ordinance ; and any person who shall use or attempt to use or knowingly permit to be used or have in his possession any branding iron or instrument similar to or resembling in pattern and size those prescribed under this Ordinance other than the branding iron which he is entitled to use Sale of branding instruments.

as herein provided shall on conviction be liable for every such offence to a fine not exceeding one thousand rupees and in default of payment to imprisonment for a period not exceeding six months.

32. If any person shall wilfully brand or imprint with his distinctive mark any stock of which he is not the owner or shall wilfully cause, direct or permit any stock of which he is not the owner to be branded with his brand, such person shall on conviction for every such offence be liable to a fine not exceeding one thousand and five hundred rupees or to imprisonment not exceeding twelve months or to both.

33. Any person other than a native who shall brand or direct aid or assist in branding on any stock or any portion thereof any signs, symbols or characters other than those made and registered in accordance with the provisions of this Ordinance shall on conviction for every such offence be liable to a fine not exceeding one thousand rupees and in default of payment to imprisonment for any term not exceeding six months or to both.

34. Any person who shall wilfully blotch, deface or otherwise render illegible or alter any brand or distinctive mark upon stock or wilfully direct, cause or permit any such brand or mark to be blotched, defaced or otherwise rendered illegible or altered or be a party thereto shall on conviction for every such offence be liable to a fine not exceeding one thousand rupees or to imprisonment not exceeding six months or to both.

35. Any person who—

- (a) Shall knowingly and unlawfully insert or permit to be inserted any false entry or diagram of any matter relating to any brand in any register, certificate, brands directory, quarterly statement or in any extract from any of them ; or
- (b) Shall with intent to defraud, forge, alter, offer, utter, dispose of or put off knowing the same to be forged or altered any such document or extract as aforesaid or which purports to be such ; or
- (c) Shall with intent to defraud wilfully and unlawfully destroy, deface or alter or cause to be destroyed, defaced or altered any such document or extract therefrom ; or
- (d) Shall knowingly and wilfully with intent to defraud use the brand or distinctive mark of any proprietor without his authority shall on conviction for every such offence be liable to imprisonment for a term not exceeding three years.

36. On the trial of any person for the theft of any hide or stock or for receiving any such hide or stock or any part thereof knowing or having reason to believe the same to have been stolen, it shall be competent for the prosecution to give evidence that the brand upon the hide or animal alleged to have been stolen is the brand of the person alleged to have been the owner of such hide or animal or of some person through or from whom such owner derived his right to such animal, and a certificate purporting to be under the hand of the Registrar or a copy of the "Gazette" containing the publication of such owner's brand shall constitute *prima facie* proof of the facts therein alleged.

37. In the case of the prosecution of any person for theft of any stock or hide thereof, where the hide is proved to have been mutilated in such a way that any brand or distinctive mark is removed or rendered illegible, the onus of proving that he was the proprietor of such animal or hide shall rest on the accused person.

38. Any person wilfully failing to comply with or offending against the provisions of this Ordinance in any case in which no penalty is imposed hereby ; and any person failing to comply with or offending against any of the provisions of any regulation or rule made under this Ordinance shall on conviction be liable to a fine not exceeding three hundred rupees and in default of payment to imprisonment for a period not exceeding two months.

Fraudulently branding the stock of others.

Using unregistered brands and irregularly using registered brands.

Defacing brands.

Forged certificate.

On trial for theft of stock-brand to be *prima facie* evidence of ownership.

Mutilation so as to remove distinctive mark.

Other offences.

SCHEDULE A.

DISTRICT BRAND REGISTER.

(The Branding of Stock Ordinance 1907.)

Name of owner in full.	Address.	District for which brand is required.	Brand allotted.	No. of certificate.	Date of registration.

SCHEDULE B.

APPLICATION FOR BRAND.

(The Branding of Stock Ordinance 1907.)

To the Registrar of Brands,

Herewith I/we enclose the prescribed fee of five rupees and request that you will allot and register a brand for the holding or place mentioned in the Schedule below :—

Name of applicant(s) in full.	Address.	District for which brand required.

Fee.....: Rupees.....

Signed.....

Applicant(s)

I/We hereby request that the second letter of my/our brand may be the letter

Signed.....

SCHEDULE C.

(The Branding of Stock Ordinance 1907.)

No.....

.....day of.....

I hereby certify that the brand shewn in the diagram at foot hereof was duly registered on the date and as the brand of the person(s) therein set forth in the Schedule hereto.

Owner(s) full name(s).	Address.	District for which Brand is registered.	Date of registration.

Fee paid.....

Signed.....

Diagram of Brand.

SCHEDULE D.

MEMORANDUM OF TRANSFER OF BRANDS.

(The Branding of Stock Ordinance 1907.)

To the Registrar of Brands,

Sir,

I,....., being the registered owner of the brand set forth in the Schedule hereto and desiring to transfer the same to (name in full of the transferee), of (name of holding or place where brand will be used and postal address thereof), hereby request you will record the same in your register accordingly and I herewith enclose the fee therefor (ten Rupees).

A. B. (owner).....

Address

Witness

C. D. (Transferee)

Address

Witness

Brand.	Name and address of previous owner of Brand.	District where Brand is registered.	No. of certificate.	Date of registration.

SCHEDULE E.

CERTIFICATE OF TRANSFER.
(The Branding of Stock Ordinance 1907.)

No.....

Date.....

This is to certify that the brand shewn in the specimen at the foot hereof was
this day transferred from.....of.....
to.....of.....

Fee paid.....

Signed.....

District Commissioner.

Diagram of Brand.	Transferee's name and address.	District where Brand is to be used.	No. of certificate.	Date of registration.

SCHEDULE F.

APPLICATION FOR AUCTIONEER'S BRAND.
(The Branding of Stock Ordinance 1907.)

To the Registrar of Brands,

Herewith I/we carrying on business as an auctioneer at.....
.....enclose the prescribed fee of five Rupees and
request that you will allot and register an auctioneer's brand to be used by me/us in the
course of my/our business as auctioneer of stock. I/We request that the letter
.....may form part of my/our brand.

Signed.....

Applicant(s).

SCHEDULE G.

DOMINANT LETTERS.
(The Branding of Stock Ordinance 1907.)

Dominant letters.	District Denoted.
A	Nairobi.
B	Machakos.
C	Kitui.
E	Kiambu.
F	Malindi.
G	Ravine.
H	Baringo.
J	Fort Hall.
K	Nyeri.
L	Kisumu.
M	Mumias.
P	Nandi.
R	Lamu.
U	Mombasa.
V	Naivasha.
W	Vanga.
Y	Teita.
S	Sotik.
T	Lumbwa.

NOTE.—Permanently reserved : the letters O & I (to be used exclusively as numerals).
The letters N & Q are unallotted. The letter D is reserved for Government Departments.