



ANNO SECUNDO

# GEORGII V REGIS.

A.D. 1911.

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## No. 1044.

An Act to make better provision as to Waybills for Travelling Stock.

[Assented to, October 26th, 1911.]

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

**1.** This Act may be cited as "The Travelling Stock Waybills Act, 1911." Short title.

**2.** (1) "The Brands Act Amendment Act, 1905," is hereby repealed. Repeal of Act No. 889 of 1905.

(2) Such repeal shall not affect any liability, forfeiture, or penalty incurred, offence committed, or any thing done, or the omission of any thing to be done, by or under the said Act, or any legal or other proceedings already commenced or hereafter commenced with respect to any of such matter or things.

**3.** In this Act, unless the context or subject matter requires a different construction— Interpretation. Cf. Act 152, 1879, s. 5.

"Cattle" includes a bull, cow, ox, heifer, steer, calf, or camel:

"Drover" means the owner or any other person droving or in charge of, or having under his control, any travelling stock:

"Horse"

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“Horse” includes horse, mare, gelding, colt, filly, ass, and mule:

No. 443 of 1888.

“Inspector” means an Inspector of Stock under “The Stock Diseases Act, 1888,” and includes the Chief Inspector of Stock, the Deputy Chief Inspector of Stock, or any temporary Inspector of stock under that Act:

“Justice” means Justice of the Peace for the said State:

“Owner” means any proprietor of any stock, and includes his agent, manager, or overseer, or any person authorised to act or usually acting on the proprietor’s behalf:

“Police Officer” means any member of the Police Force:

“Ranger” means a Crown Lands ranger or a District Council ranger:

“Sheep” includes a ram, ewe, wether, lamb, goat, or kid:

“Stock” includes horses, cattle, and sheep:

“This Act” includes regulations made under this Act:

Provided that except in the definition hereinbefore contained of the word “stock” the words “cattle” and “sheep,” in this Act, respectively refer to one animal and are not used in the plural sense.

Application of Act.  
New.

4. This Act shall not apply to any horse or cattle being travelled or driven whilst harnessed, saddled, or yoked.

Waybill for  
travelling stock.  
Act 869, 1906, s. 2,  
altered.

5. (1) Every owner shall, at the time of delivering any stock to a drover to be travelled or driven to any place distant fifty miles or more from the place of the departure of such stock, give to such drover a waybill, in the form of the First Schedule, or in a form to the like effect, accurately setting forth, with respect to all of such stock, the particulars indicated in such schedule, and in the manner so indicated.

(2) Every owner who fails to comply with the provisions of this section shall be guilty of an offence against this Act, and shall be liable to a penalty of not more than Five Pounds in respect of each horse, cattle, or sheep as to which the said provisions are not complied with.

Drover to carry and  
produce waybill on  
demand.  
Ibid., s. 3, altered.

6. (1) Every drover (whether the owner or not) in charge of or having under his control any stock which are being driven or travelled to any place distant fifty miles or more from the place of departure of such stock, shall have with him throughout the journey a waybill for such stock in the form of the First Schedule, or in a form to the like effect, accurately setting forth, with respect to all of such stock, the particulars indicated in such schedule, and in the manner so indicated, and shall produce such waybill on demand to any Justice, Inspector, Ranger, or Police Officer, or to the owner or occupier of any land over which he is at the time, or has been, travelling or driving such stock or any of them. (2) If

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(2) If any drover is in charge of or has under his control any stock being travelled or driven as mentioned in subsection (1) of this section, and—

Offences.  
Ibid., s. (5), part altered.

- (a) He has not with him a waybill for such stock complying with the said subsection ; or
- (b) Any of such stock are not described, or not accurately described, in a waybill complying with the said subsection which he has with him ; or
- (c) He fails, on demand made as mentioned in the said subsection, to produce a waybill for the said stock complying with the said subsection,

he shall be guilty of an offence against this Act, and shall be liable to a penalty of not more than Five Pounds in respect of each horse, cattle, or sheep as to which the offence is committed.

(3) If in any proceedings for an alleged offence under subdivision (a) or (b) of the next preceding subsection it is proved --

Defence.

- (a) That the drover had with him at the time of the alleged offence a waybill for some of the stock then in his charge or under his control, and
- (b) If the production of such waybill was demanded, that he produced the same on demand,

the information shall be dismissed if the drover gives on oath or affirmation a reasonable account, to the satisfaction of the Magistrate or Justices hearing the case, as to how all stock in his charge or under his control which are not described, or not accurately described, in such waybill came to be in his charge or under his control.

7. (1) Any Inspector, Justice, Ranger, or Police Officer may at any time demand the production by the drover of any stock of a waybill for such stock, and may examine such waybill and compare the same with the stock in the charge or under the control of the drover.

Power to examine waybill and stock.

Ibid., s. 4, altered.

(2) If any horse, cattle, or sheep not described in such waybill is found amongst the stock in the charge or under the control of such drover, and he does not give a reasonable account, to the satisfaction of such Inspector, Justice, Ranger, or Police Officer, as to how such horse, cattle, or sheep came to be in his charge or under his control, such Inspector, Justice, Ranger, or Police Officer may seize such horse, cattle, or sheep and impound it in the nearest public pound ; whereupon such horse, cattle, or sheep shall be dealt with in the manner set forth in, and as if impounded under, any Act regulating the impounding of stock : Provided that if such horse, cattle, or sheep is seized at a greater distance than ten miles from the nearest public pound such Inspector, Justice, Ranger, or Police Officer shall either detain it until it is delivered up to such person as a Justice orders, or otherwise disposed of as a Justice orders, or shall impound it as aforesaid.

And to impound.

8. (1) No

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Stock not to be delivered until fees and expenses paid.

Ibid., s. 5 (part).

8. (1) No horse, cattle, or sheep impounded or detained under section 7 shall be delivered to the owner thereof, or to any person claiming it on his behalf, until all poundage fees and charges and all disbursements and expenses incurred in respect thereof have been paid.

(2) The owner of the horse, cattle, or sheep may recover the amount so paid by him or on his behalf as a debt due to him by the drover, unless the horse, cattle, or sheep was delivered to the drover by the owner without such a waybill, with respect to the same, as is required by section 5.

Punishment for purchasing stock without waybill.

Ibid. (part) altered.

9. Any person who purchases or receives from any drover any horse, cattle, or sheep for which a waybill is required by this Act and for which such drover does not produce to such person such a waybill as required by section 5, or which is not described, or not accurately described in a waybill so produced by such drover, shall, unless such drover has produced to such person a written authority from the actual owner of such stock to sell or otherwise dispose of the same, be guilty of an offence against this Act, and shall be liable to a penalty of not more than Ten Pounds.

Interim waybill.

Ibid., s. 6, altered.

10. (1) Whenever a waybill for travelling stock has been accidentally lost or destroyed the drover in charge or control of the stock shall forthwith apply in writing to the nearest Inspector or Police Officer for an interim waybill, and such Inspector or Officer shall, on the drover making a declaration of such loss or destruction before a Justice, grant an interim waybill for such stock in the form of the Second Schedule, or in a form to the like effect.

(2) The person applying for such interim waybill shall pay to the person granting the same a fee of One Pound, which shall be paid into the General Revenue of the said State.

Certain allegations to be *prima facie* evidence.

New.

11. In any proceedings for an alleged offence against this Act the allegation in the information that—

- i. A person named therein was, at the time therein mentioned, the owner of any stock therein referred to, or
- ii. A person named therein was, at the time therein mentioned, the drover of any stock therein referred to, or
- iii. Any stock, or any horse, cattle, or sheep therein referred to, were or was, at the time therein mentioned, in the charge or under the control of a person therein named, or
- iv. Any stock therein referred to were, at the time therein mentioned, being travelled or driven to a place distant fifty miles or more from the place of the departure of such stock,

shall be *prima facie* evidence of the matter so alleged; and it shall not be necessary in any information for an alleged offence against this Act to allege any place as the place from or to which any stock were being travelled or driven.

12. (1) All

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**12.** (1) All proceedings in respect of offences against this Act shall be by information, and shall be heard and determined in a summary way before a Special Magistrate or any two Justices, under the Ordinance No. 6 of 1850, or any Act for the time being in force relating to the duties of Justices as to summary proceedings: Provided that if the Magistrate or Justices is or are of opinion that the person charged with the offence ought to be prosecuted for an indictable offence he or they may abstain from dealing with the case summarily and commit such person to take his trial for the indictable offence. Summary procedure.

(2) The Magistrate or Justices may make any order as to costs which he or they think fit.

(3) All convictions and orders made by the Magistrate or Justices may be enforced as provided by the said Ordinance or any other Act.

**13.** (1) There shall be an appeal from the Special Magistrate or Justices to the Local Court of Adelaide in its Full Jurisdiction, or to the Local Court of Full Jurisdiction nearest to the place where the conviction or order is made, against any conviction, under this Act, or any order dismissing any information for an offence against this Act, or any other order made on any such information. Appeal to Local Court

(2) Such appeal shall be regulated by the said Ordinance No. 6 of 1850 and "The Justices Procedure Amendment Act, 1883-4," or any Act for the time being in force regulating appeals to Local Courts: Provided that the Court on such appeal may make any order as to costs which it thinks fit, although such costs exceed Ten Pounds. 298 of 1883-4.

**14.** (1) The Local Court may state a special case for the opinion of the Supreme Court. Special case for opinion of Supreme Court.

(2) The Supreme Court shall deal with such special case according to the practice of the Supreme Court on special cases, and may make such order therein, including any order as to the costs of the proceedings in that Court and in the Court below, as to the said Supreme Court appears just.

**15.** (1) The Governor may make regulations prescribing all such matters and things as it may be necessary or convenient to prescribe for fully and effectually carrying out the provisions and objects of this Act and guarding against violations and evasions thereof. Regulations.

(2) All regulations so made—

(a) Shall be published in the *Government Gazette* ;

(b) From the date of such publication, or from a later date fixed by the order making the same, shall (subject to subsection (3) hereof) be of the same effect as if they were enacted by this Act ; and

(c) Shall be laid before both Houses of Parliament within fourteen days after publication, if Parliament is in Session, and if not, then within fourteen days after the commencement of the next Session of Parliament. (3) If

Publication of regulations.

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Disallowance by  
Parliament.

(3) If either House of Parliament passes a resolution disallowing any such regulation, of which resolution notice has been given at any time within fourteen sitting days of such House after such regulation has been laid before it, such regulation shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime.

In the name and on behalf of His Majesty, I hereby assent to  
this Bill.

DAY H. BOSANQUET, Governor.

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## THE SCHEDULES.

## THE FIRST SCHEDULE.

Sec. 5.

"The Travelling Stock Waybills Act, 1911."

## WAYBILL OF TRAVELLING STOCK.

I [*name in full of owner, agent, manager, or overseer*] declare that I am (or [*name in full of owner*] is) the owner of the travelling stock, more particularly described in the schedule hereunder, and I further declare that the stock are to be started this day by [*set out drover's name*] from \_\_\_\_\_ and are intended to be driven to \_\_\_\_\_ by the following route, namely \_\_\_\_\_, and are to be delivered there to [*name*].

Number of Stock (to be stated in words).	Description of Stock.	Sex.	Brands and Marks.	Health.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

[*Signature of owner, agent, manager, or overseer.*]

## THE SECOND SCHEDULE.

Sec. 10.

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## INTERIM WAYBILL.

It having been represented to me that \_\_\_\_\_, 19 \_\_\_\_\_, the drover of the [*state the number in words*] cattle (or horses or sheep) belonging to \_\_\_\_\_ and mentioned in the schedule hereunder, has accidentally lost his waybill while travelling from \_\_\_\_\_ to \_\_\_\_\_, by the following route, namely \_\_\_\_\_, this interim waybill is hereby granted to such drover for such cattle (or horses or sheep) for the route and destination above mentioned.

Number of Stock.	Description of Stock.	Brands and Marks of Stock.

\_\_\_\_\_, Inspector (or Constable).