

# *The Animal Identification Act*

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Chapter A-20.1 of *The Revised Statutes of Saskatchewan, 1978 (Supplement)* (effective August 1, 1978) as amended by the *Statutes of Saskatchewan*, 1996, c.24; 1998, c.P-42.1; 2000, c.37; 2013, c.3; and 2014, c.E-13.1.

## **NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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## CHAPTER A-20.1

### An Act respecting the Registration, Application and Implantation of Animal Identification Marks

#### Short title

- 1 This Act may be cited as *The Animal Identification Act*.

#### Interpretation

- 2 In this Act:

- (a) **“animal”** means any head of cattle or other animal of the bovine species, any horse or other animal of the equine species, any sheep, goat or swine, or any inter-species hybrid of the same;
- (a.1) **“animal identification inspection administration agreement”** means an agreement entered into pursuant to section 2.2;
- (b) **“director”** means the person designated by the minister to act as the director for the purposes of this Act and the regulations and, where a delegation has been made pursuant to section 22.3, includes the delegate of that person;
- (c) **“inspector”** means a person appointed or authorized to be an inspector under this Act;
- (d) **“mark”** means a brand or any permanent mark applied to the exterior of an animal or any device implanted beneath the skin or within the body of an animal, but does not include any mark registered under the authority of the *Livestock Pedigree Act* (Canada);
- (e) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (e.1) **“ministry”** means the ministry over which the minister presides;
- (e.2) **“person”** includes a partnership, association or other organization;
- (f) **“prescribed”** means prescribed in the regulations;
- (g) **“registered mark”** means a mark that has been registered under this Act.

1977-78, c.2, s.2; R.S.S. 1978 (Supp.), c.A-20.1,  
s.2; 1996, c.24, s.3; 2013, c.3, s.3.

#### Responsibilities and powers of minister

2.1(1) The minister is responsible for all matters not by law assigned to any other minister or government agency relating to the registration, application, implantation and inspection of animal identification marks.

(2) For the purposes of carrying out the minister’s responsibilities, the minister may:

- (a) create, develop, adopt, co-ordinate and implement policies, strategies, objectives, guidelines, programs, services and administrative procedures respecting the registration, application, implantation and inspection of animal identification marks;

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- (b) undertake and co-ordinate planning, research and investigations respecting the registration, application, implantation and inspection of animal identification marks;
- (c) provide information to the public respecting the registration, application, implantation and inspection of animal identification marks; and
- (d) do any other thing that the minister considers appropriate to carrying out the minister's responsibilities or to exercising the minister's powers pursuant to this Act and the regulations.

2013, c.3, s.4.

**Animal identification inspection administration agreement**

**2.2(1)** Subject to the approval of the Lieutenant Governor in Council, the minister may enter into an animal identification inspection administration agreement with any person.

(2) In an animal identification inspection administration agreement entered into pursuant to subsection (1), the minister may delegate all or any of the minister's powers and duties pursuant to this Act and the regulations with respect to all inspections of animal identification marks or with respect to any category of inspections of animal identification marks listed in the agreement.

(3) An animal identification inspection administration agreement must include provisions that specify all of the following:

- (a) the powers and duties being delegated to the person with whom the agreement is entered into;
- (b) the expected outcomes to be achieved by the person;
- (c) the acceptance by the person of the person's responsibility to exercise the powers and fulfil the duties delegated to the person;
- (d) the requirement that the person report to the minister whenever required by the minister and in the manner and within the period directed by the minister;
- (e) the requirement that the person provide the minister, within a period after the end of a year that is specified in the agreement, with an annual report on the person's activities during the year in carrying out the provisions of the agreement and an audited financial statement satisfactory to the minister respecting the person's carrying out of the provisions of the agreement;
- (f) the requirements for records management by the person;
- (g) the requirement that the person report to the Government of Saskatchewan any matters with respect to the exercise by it of the powers and the fulfilment by it of the duties delegated to the person;
- (h) the requirement that the person carry adequate insurance;
- (i) the indemnification between the person and the Government of Saskatchewan;
- (j) the obligations of the parties if the agreement is terminated;

- (k) the period of the agreement or the procedure for the review of the agreement by the minister and the person;
  - (l) the settlement of disputes;
  - (m) the liability of the person arising out of the person's carrying out of the provisions of the agreement;
  - (n) the terms and conditions that are to be imposed on the person in carrying out the provisions of the agreement;
  - (o) any additional prescribed matters.
- (4) The delegation to the person of the administration of all or part of this Act and the regulations in accordance with this section does not constitute the person as an agent of the Crown in right of Saskatchewan.
- (5) Notwithstanding any provision of an animal identification inspection administration agreement or any other Act or law but subject to subsection (6), the minister may terminate an animal identification inspection administration agreement if the minister is satisfied that the person with whom the agreement is entered into is not complying with the agreement or this Act or the regulations.
- (6) An animal identification inspection administration agreement may be terminated only in accordance with the prescribed procedures and on the prescribed terms and conditions.
- (7) In accordance with section 13 of *The Executive Government Administration Act*, the minister shall lay before the Legislative Assembly every animal identification inspection administration agreement entered into by the minister within 90 days after the agreement is entered into.

2013, c.3, s.4; 2014, c.E-13.1, s.62.

**Matters arising from entering into an animal identification inspection administration agreement**

- 2.3(1)** In this section, “**specified provisions**” means the provisions of this Act and the regulations that are mentioned in an animal identification inspection administration agreement.
- (2) Notwithstanding any other provision of this Act or the regulations or any other Act or law but subject to subsection (3), if the minister and a person enter into an animal identification inspection administration agreement:
- (a) a reference in the specified provisions to an inspector is deemed to be a reference to an inspector appointed or designated by the person, and the inspector appointed or designated by the person may exercise the powers of, and shall fulfil the duties imposed on, an inspector pursuant to the specified provisions;
  - (b) a reference to the minister in the specified provisions is deemed to be a reference to the person, and the person may exercise the powers of, and shall fulfil the duties imposed on, the minister that are mentioned in those specified provisions;

- (c) duties imposed by the specified provisions on the minister, the ministry, an official or employee of the ministry or an inspector and powers granted by the specified provisions to the minister, the ministry, an official or employee of the ministry or an inspector are delegated to the person or an inspector appointed or designated by the person, as the case may be, unless specifically exempted in the animal identification inspection administration agreement;
  - (d) all persons who are required in the specified provisions to pay to the minister, the ministry or an inspector a fee shall instead pay to the person any fee charged by the person for the purposes of this Act and the regulations;
  - (e) the person may exercise any powers given to the minister, the ministry or the Government of Saskatchewan pursuant to the specified provisions to enforce payment of any fee charged by the person for the purposes of the specified provisions, including the power to cancel or suspend any document, licence or approval issued pursuant to this Act for non-payment of that fee;
  - (f) all applications that are required to be made to the minister, the ministry, an official or employee of the ministry or an inspector pursuant to the specified provisions, and all information and documentation that is required to be provided to the minister, the ministry, an official or employee of the ministry or an inspector pursuant to the specified provisions, shall be made or provided to the person or an inspector appointed or designated by the person, as the case may be;
  - (g) every valid licence or certificate issued by the minister, the ministry or an inspector pursuant to the specified provisions that is in force on the day before the coming into force of this section remains in force and may be dealt with by the person in accordance with this Act as if it had been issued by the person; and
  - (h) every prohibition or notice issued by the minister, the ministry or an inspector pursuant to the specified provisions that is in place on the day before the coming into force of this section remains in force and may be dealt with by the person as if it had been issued by the person.
- (3) In an animal identification inspection administration agreement, the minister and the person may provide that all or any of the matters mentioned in subsection (2):
- (a) do not apply; or
  - (b) are to apply in the manner and with the modifications set out in the agreement.

2013, c.3, s.4.

#### **Prohibition**

**3** No person shall apply a mark to the exterior of any animal unless the mark is a registered mark.

1977-78, c.2, s.3; R.S.S. 1978 (Supp.), c.A-20.1, s.3; 2000, c.37, s.3.

**Application for registration of mark**

- 4(1) Any person who desires to register a mark may make application to the director in the prescribed form accompanied by the prescribed fee.
- (2) The director, if satisfied that the application conforms to the requirements of this Act and the regulations, shall register the mark.
- (3) The director may register the mark as a four-year mark or as a lifetime mark, according to the request of the person making the application

1977-78, c.2, s.4; R.S.S. 1978 (Supp.), c.A-20.1, s.4; 1996, c.24, s.4.

**5 Repealed.** 1996, c.24, s.5**Expiry of registration****6** Subject to section 9, the registration of a mark:

- (a) registered as a four-year mark expires on December 31 in the third year following the year in which the mark was first registered, unless it has been renewed pursuant to section 7;
- (b) registered as a lifetime mark expires:
- (i) on the death of the person in whose name it was registered; or
  - (ii) where the mark is registered in the name of a corporation, on the earlier of:
    - (A) the twentieth anniversary of the registration; or
    - (B) the date when the corporation is dissolved or otherwise ceases to exist.

1996, c.24, s.6.

**Application for renewal of registration**

**7** The director may, upon receipt of an application for renewal accompanied by the prescribed fee not earlier than October 1 and not later than December 31 in the year in which a registration would otherwise expire, renew the registration of a mark registered as a four-year mark.

1977-78, c.2, s.7; R.S.S. 1978 (Supp.), c.A-20.1, s.7; 1996, c.24, s.7.

**Expiry of renewed registration**

- 8(1)** A renewal of a registration pursuant to section 7 may be as a four-year renewal or as a lifetime renewal, according to the request of the person making the application.
- (2) Subject to section 9, a registration that has been renewed as a four-year renewal expires on December 31 in the fourth year following the year in which the registration would have expired had it not been renewed prior to expiry.
- (3) Subject to section 9, a registration that has been renewed as a lifetime renewal expires:
- (a) on the death of the person in whose name it was registered; or

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- (b) where the mark is registered in the name of a corporation, on the earlier of:
  - (i) the twentieth anniversary of the registration; or
  - (ii) the date when the corporation is dissolved or otherwise ceases to exist.

1996, c.24, s.8.

**Notice of cancellation**

9(1) The director may give to a person in whose name a mark has been registered a written notice that the director intends to cancel the registration of the mark if, in the opinion of the director:

- (a) the person in whose name the mark has been registered has violated any provision of this Act or the regulations; or
- (b) the registered mark:
  - (i) is a duplicate of another registered mark or so similar to another registered mark as to create the possibility of confusion; and
  - (ii) was registered after the registration of the mark mentioned in subclause (i).

(2) A notice mentioned in subsection (1) may be given by personal service or by registered mail, and in the case of a notice given by registered mail, is deemed to have been received on the fifth day after it is mailed, unless the person to whom it is given establishes that, through no fault of that person, it was not received or was not received until a later date.

(3) If a person to whom notice is given pursuant to this section does not establish to the satisfaction of the director within 30 days of receiving the notice that the registration of his or her mark should not be cancelled, the director may cancel the registration.

(4) The director may, without charge, register a mark to replace a mark to which clause (1)(b) applies.

1996, c.24, s.9.

**Certificate of registration**

10(1) The director shall, after registering or renewing the registration of a mark, forward a certificate of registration to the person in whose name the mark is registered.

(2) A certificate of registration shall be *prima facie* proof that the person in whose name the mark is registered has, during the period shown in the certificate, the exclusive right to the use and benefit of that mark.

1977-78, c.2, s.10; R.S.S. 1978 (Supp.), c.A-20.1, s.10.



**Restriction on registration of expired or cancelled registration**

**11(1)** Subject to subsection (2), a registration that has expired or been cancelled shall not be re-registered in the name of any person for a period of five years from the day the registration expired or was cancelled.

(2) The director may, on receipt of an application in the prescribed form accompanied by the prescribed fee, at any time prior to the expiry of a period of five years from the day a registration expired or was cancelled:

- (a) re-register the mark in the name of the person in whose name the mark was registered on the day the registration expired or was cancelled; or
  - (b) in the case of the death of a person in whose name a lifetime mark was registered, re-register the mark in the name of a spouse or child of that person.
- (3) The director may re-register the mark as a four-year mark or as a lifetime mark, according to the request of the person making the application.

1977-78, c.2, s.11; R.S.S. 1978 (Supp.), c.A-20.1, s.11; 1996, c.24, s.10.

**Revision of registration**

**12** The director may, upon application from the person in whose name a mark has been registered accompanied by the prescribed fee, make a change in the registration of the mark.

1977-78, c.2, s.12; R.S.S. 1978 (Supp.), c.A-20.1, s.12.

**Restriction on registration**

**13(1)** The director shall refuse to register any mark that, in his opinion, is identical or similar to:

- (a) a registered mark; or
  - (b) a mark whose registration has expired or has been cancelled during the preceding four years.
- (2) **Repealed.** 1996, c.24, s.11.
- (3) **Repealed.** 1996, c.24, s.11.

1977-78, c.2, s.13; R.S.S. 1978 (Supp.), c.A-20.1, s.13; 1996, c.24, s.11.

**Transfer of registration**

**14(1)** The director may approve the transfer of the registration of a mark upon receipt of:

- (a) an application for transfer in the prescribed form;
- (b) the prescribed fee; and
- (c) particulars sufficient to satisfy him that the application complies with the requirements of this Act and the regulations.

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(2) Where the director approves the transfer of the registration of a mark, the director shall:

- (a) register the mark in the name of the person to whom the transfer is made; and
  - (b) issue a certificate of registration in the name of the person to whom the transfer is made.
- (3) A transfer approved and registered under this section is valid against, and takes priority over, any transfer that has not been registered.

1977-78, c.2, s.14; R.S.S. 1978 (Supp.), c.A-20.1, s.14.

**Registered mark *prima facie* proof of ownership**

**15** The presence of a registered mark upon or within an animal is *prima facie* proof that the animal is owned by the person in whose name the mark is registered.

1977-78, c.2, s.15; R.S.S. 1978 (Supp.), c.A-20.1, s.15.

**Records**

**16** The director shall, with respect to a registered mark, keep a record in the prescribed form showing:

- (a) the person in whose name the mark is registered;
- (b) the date of a registration, renewal of registration, cancellation of registration or transfer of registration; and
- (c) the date that the registration will expire unless renewed.

1977-78, c.2, s.16; R.S.S. 1978 (Supp.), c.A-20.1, s.16.

**Search of records**

**17** Any person may, upon payment of the prescribed fee, during the business hours of the director, request a search of the records mentioned in section 16 and may obtain a certified extract from those records.

1977-78, c.2, s.17; R.S.S. 1978 (Supp.), c.A-20.1, s.17.

**List of registered marks**

**18** The director may, at such times and in such manner as he considers advisable, publish a list of registered marks and the list may be sold at a prescribed fee.

1977-78, c.2, s.18; R.S.S. 1978 (Supp.), c.A-20.1, s.18.

**19 Repealed.** 2000, c.37, s.4.

**20 Repealed.** 2000, c.37, s.4.

**Inspectors**

**21(1)** Inspectors required for the administration of this Act may be appointed in accordance with *The Public Service Act, 1998*.

(2) Every member of the Royal Canadian Mounted Police is, by virtue of his position, an inspector under this Act and has the same powers and duties that are conferred or imposed on an inspector by this Act and the regulations.

(3) The Lieutenant Governor in Council may authorize any person employed by the Government of Saskatchewan or the Government of Canada to be *ex officio* an inspector under this Act.

1977-78, c.2, s.21; R.S.S. 1978 (Supp.), c.A-20.1, s.21; 1998, c.P-42.1, s.42.

**Routine inspection**

**22(1)** For the purpose of administering this Act and the regulations, an inspector may make any inspection or inquiry that the inspector considers necessary, and for that purpose may enter onto private property at reasonable times.

(2) Every person who owns or holds animals shall:

(a) cause the place where the animals are kept to be open for inspection by an inspector at all reasonable times;

(b) cause all books, documents, records and equipment pertaining to the marking of the animals to be available for inspection by an inspector at all reasonable times.

(3) An inspector may not enter a private dwelling to make an inspection or inquiry without the consent of the occupant of the private dwelling.

(4) A justice of the peace or a judge of the Provincial Court of Saskatchewan may issue an order requiring a person to give up to any inspector for the purpose of inspection any books, documents, records and equipment pertaining to the marking of animals where an inspector believes, on reasonable grounds presented under oath, that:

(a) books, documents, records and equipment pertaining to the marking of animals are present in the person's private dwelling; and

(b) the person has refused to permit the inspector to enter the private dwelling.

(5) No person shall fail to comply with an order made pursuant to subsection (4).

1996, c.24, s.12.

**Search for evidence of offence**

**22.1(1)** A justice of the peace or a judge of the Provincial Court of Saskatchewan may issue a warrant authorizing an inspector to enter and search any place or premises named in the warrant if the justice or judge is satisfied by information given under oath that there are reasonable grounds to believe that:

(a) an offence against this Act or the regulations has been committed; and

(b) there is evidence of the offence to be found at the place or premises proposed to be searched.

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- (2) With a warrant issued pursuant to subsection (1), an inspector may:
  - (a) enter and search any place or premises named in the warrant; and
  - (b) seize and remove from any place or premises searched anything that may be evidence of an offence against this Act or the regulations.
- (3) Subject to subsection (4), an inspector may, without a warrant, do any of the things mentioned in subsection (2), if the conditions for obtaining a warrant exist and the inspector believes, on reasonable grounds, that the delay necessary to obtain a warrant would result in the loss, removal or destruction of evidence.
- (4) An inspector may not enter a private dwelling without a warrant unless the occupant of the private dwelling consents.

1996, c.24, s.12.

**Co-operation with inspectors**

- 22.2(1)** No person shall resist, obstruct, hinder or interfere with an inspector who is acting in the course of his or her duties.
- (2) An inspector who is acting in the course of his or her duties is a peace officer for the purposes of the enforcement of this Act and the regulations.

1996, c.24, s.12.

**Director may delegate**

- 22.3** The person designated by the minister to act as the director for the purposes of this Act or the regulations may, in writing, delegate any or all of his or her powers or responsibilities pursuant to this Act or the regulations to another person.

1996, c.24, s.13.

**Offences and penalties**

- 23(1)** Any person who:
  - (a) marks, or directs, aids or assists any person to mark, any animal with a mark that is not a registered mark;
  - (b) marks, or causes, directs or permits to be marked, with his own or with any mark, any animal of which he is not the owner without the authority of the owner of the animal;
  - (c) blotches, defaces or otherwise renders illegible or alters any mark upon or in an animal, or directs, causes or permits any mark upon an animal to be blotched, defaced or otherwise rendered illegible or altered; or
  - (d) violates any provisions of this Act or the regulations or neglects to do anything required by this Act or the regulations;

is guilty of an offence and, in addition to any other penalty to which he may be subject by law, is liable upon summary conviction to a fine not exceeding \$1,000.

(2) In a prosecution for an offence mentioned in subsection (1), the fact that an animal carrying any mark is found in the possession of the accused is *prima facie* proof:

- (a) that the mark was placed upon the animal by the accused or at his direction, or with his aid or assistance; or
- (b) that the accused caused, directed or permitted the mark to be placed upon or implanted in the animal.

1977-78, c.2, s.23; R.S.S. 1978 (Supp.), c.A-20.1, s.23.

#### Regulations

**24** For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make regulations that are ancillary to and are not inconsistent with this Act, and every regulation made under this section has the force of law and, without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations:

- (a) defining any word or expression used in this Act but not defined in this Act;
  - (a.1) for the purposes of clause 2.2(3)(o), prescribing matters to be included in an animal identification inspection administration agreement;
  - (a.2) for the purposes of subsection 2.2(6), prescribing the procedures for and terms and conditions of terminating an animal identification inspection administration agreement;
- (b) prescribing the fees and charges payable for any service performed under this Act or the regulations and the manner of collecting and administering any amount payable;
- (c) prescribing forms;
- (d) respecting registration and renewal and cancellation of registration;
- (e) requiring persons selling or distributing devices or substances for the identification of animals to be licensed;
  - (e.1) respecting any matter that the Lieutenant Governor in Council considers necessary in connection with the licensing of persons engaged in the activities mentioned in clause (e), including:
    - (i) eligibility for a licence;
    - (ii) terms and conditions of a licence;
    - (iii) the fees to be paid for a licence; and
    - (iv) the renewal, suspension and cancellation of a licence;
- (f) governing the sale and use of certain devices and substances for the identification of animals;
- (g) respecting the placing of marks and arabic numerals on or in an animal;

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(g.1) requiring the registration of any mark implanted beneath the skin or within the body of an animal; and

(h) respecting any other matter that he considers necessary for carrying out the provisions of this Act.

1977-78, c.2, s.24; R.S.S. 1978 (Supp.), c.A-20.1, s.24; 2000, c.37, s.5; 2013, c.3, s.5.

**Time constraint for prosecutions**

**25** No prosecution for an offence under this Act or the regulations shall be commenced after four years from the date of the offence.

1977-78, c.2, s.25; R.S.S. 1978 (Supp.), c.A-20.1, s.25.

**R.S.S. c.B-7 repealed**

**26** *The Brand and Brand Inspection Act* is repealed.

1977-78, c.2, s.26; R.S.S. 1978 (Supp.), c.A-20.1, s.26.