

1994 BILL 12

Second Session, 23rd Legislature, 43 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 12

BRAND AMENDMENT ACT, 1994

MR. JACQUES

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 12
Mr. Jacques

BILL 12

1994

BRAND AMENDMENT ACT, 1994

(Assented to _____, 1994)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

- 1 *The Brand Act is amended by this Act.*
- 2 *Section 1 is amended by adding the following after clause (f):*
 - (f.1) "prescribed" means prescribed or otherwise provided for by the regulations;
- 3 *Section 3(2) is amended by striking out "by the regulations".*
- 4 *Section 8 is amended by striking out "duration, renewal," and substituting "purchase, allotment date,".*
- 5 *The following is added after section 8.1:*

Purchase
instead of
renewal
system for
brands

8.2(1) An allotment of a new brand after 1994 may be made only by way of a sale and purchase of the brand under this Act.

(2) Brands that were held at the end of 1994 may not be renewed under the quadrennial renewal system previously applicable and may only be purchased under this Act, but a renewal made before 1995 that expires after 1994 continues to have full effect until the term for which the renewal was made expires.

Explanatory Notes

- 1** Amends chapter B-11 of the Revised Statutes of Alberta 1980.
- 2** Adding definition of “prescribed”.
- 3** Section 3(2) presently reads:

(2) A brand must be placed or implanted in accordance with the regulations on the locations prescribed by the regulations.
- 4** Section 8 presently reads:

8 The Recorder shall keep a record of all brands, including honorary brands, allotted under this Act, and of their duration, renewal, cancellation and transfer, together with the dates thereof and the names of the owners or transferees of those brands.
- 5** Implementation of new system for purchase, rather than quadrennial renewal, of brands, with transitional arrangements to recognize existing renewals.

(3) If a brand referred to in subsection (2) is purchased under this Act with effect from the expiry of the term of its final renewal made before 1995, the brand continues to be allotted to the purchasing owner and retains its original allotment date, and if it is not so purchased it then ceases to belong and be allotted to the owner and may be resold and allotted under subsection (1) as if it were a new brand.

(4) The Recorder shall enter and keep all records necessary for the proper implementation of this section and shall provide purchasing owners with sufficient documentation evidencing their purchases.

(5) Fees payable for the purchase of brands must be paid in accordance with the regulations.

6 Section 9 is amended

(a) in subsection (1) by striking out “or renewal” and substituting “, purchase or transfer”;

(b) in subsection (2)

(i) in clause (a) by striking out “and” at the end;

(ii) in clause (b) by striking out “or renewal” and substituting “, purchase or transfer, and”;

(iii) by adding the following after clause (b):

(c) if an allotment is made, deliver a certificate of the allotment to the applicant,

7 Section 10 is amended

(a) in subsection (1) by striking out “or renewed” and substituting “or transferred”;

(b) in subsection (2) by striking out “or renewal” wherever it occurs and substituting “or transfer”.

8 Section 15 is repealed.

6 Section 9 presently reads:

9(1) An application for the allotment or renewal of the exclusive right to use a brand, other than an honorary brand, shall be made to the Recorder and shall be accompanied by the prescribed fee.

(2) The Recorder if satisfied that the application conforms with the requirements of this Act shall

(a) grant the application, and

(b) forthwith record the allotment or renewal,

unless the Minister instructs the Recorder to refuse the application.

7 Section 10 presently reads in part:

10(1) The person to whom the exclusive right to use a brand is allotted or renewed and in whose name it is recorded is the owner of the brand.

(2) The Recorder shall deliver or send to the person referred to in subsection (1) a certificate of the allotment or renewal and of the recorded entry of the allotment or renewal.

8 Section 15 presently reads:

15(1) Every brand, other than an honorary brand, and vent, the exclusive right to the use of which is allotted under this or under any other Act or Ordinance, remains the property of the registered owner so long as the owner pays to the Recorder the prescribed fee for the renewal of the brand.

9 Section 17 is amended

(a) in subsection (2)(b) by striking out “recording”;

(b) in subsection (4) by adding “and the transferor’s exclusive right to the use of the brand is cancelled” after “brand”.

10 Section 21 is amended

(a) by repealing clause (b) and substituting the following:

(b) respecting fees payable for allotments, purchases, transfers and other recordings made and for other services and materials provided under this Act,

(2) *The fees are due and payable as follows:*

- (a) *for brands allotted before January 1, 1907, on December 31 of every 4th year starting December 31, 1915;*
- (b) *for brands allotted during 1907, 1908 and 1909, on December 31 of every 4th year starting December 31, 1916;*
- (c) *for brands allotted during 1910, 1911 and 1912, on December 31 of every 4th year starting December 31, 1917;*
- (d) *for brands allotted during 1913 and 1914, on December 31 of every 4th year starting December 31, 1918;*
- (e) *for brands allotted after December 31, 1914, on December 31 of every 4th year after the allotment.*

(3) *If the owner of a brand does not pay the proper fee at the required time, the Recorder shall forthwith send a notice to him to the effect that he will cease to be the owner of the brand unless the fee due by him is paid before March 31, and if the owner fails to pay the required fee by that day he ceases to be the owner of the brand.*

(4) *If an owner under this Act forfeits his right to the ownership of a brand, the brand shall not be allotted to any other person for a period of at least 4 years from the date of forfeiture.*

9 Section 17 presently reads in part:

17(1) A transfer of ownership of a brand recorded under this Act

- (a) *shall be in the prescribed form, and*
- (b) *is not effective until it is submitted to and recorded by the Recorder.*

(2) *The Recorder may refuse to record a transfer submitted to him if*

- (a) *it is not executed by the transferor and the transferee in such manner and accompanied by proof of execution satisfactory to him, and*
- (b) *the prescribed recording fee is not paid.*

(4) *When the Recorder records the transfer, the transferee becomes the owner of the brand.*

10 Section 21 presently reads in part:

21 The Minister may make regulations

- (a) *prescribing forms for use under this Act;*
- (b) *prescribing a tariff of fees to be paid for materials and services provided under this Act;*

including the imposition of different fees for different categories of persons or services;

(b) by adding the following after clause (b):

- (b.1) respecting any matters that the Minister considers are required for the proper implementation of section 8.2;**
- (b.2) restricting allotments of brands whose owners do not exercise their rights to purchase under section 8.2;**

11 This Act comes into force on January 1, 1995.

11 Coming into force.