

Livestock Identification and Commerce Act – Frequently Asked Questions (FAQs)

Brand FAQs

What constitutes a brand and who can use it?

A brand will continue to be a character or combination of characters used to identify the person or organization having an ownership interest or a security interest in livestock. Producers will also continue to be allowed to use modern forms of identification, such as electronic identification, for which there is a registry recognized by the Minister.

The application of a brand to livestock will continue to be voluntary. Only those who want to brand, have to brand. Furthermore, the regulations only apply to branding of livestock as defined in the *Livestock Identification and Commerce Act* and associated regulations (currently, horses and cattle). Branding of other types of animals will not be regulated in this legislation.

All brands will continue to be registered with LIS and it will continue to be an offence to apply an unregistered brand.

Only the owner of the brand or someone authorized by the owner will be allowed to apply the brand to livestock.

What kinds of livestock can I apply a brand to?

The brand system will only recognize brands applied to livestock. Livestock is defined as cattle and horses and any other livestock specified in the regulations. Bison will be removed from the brand inspection requirements.

Who can register a brand?

Alberta residents, business and anyone conducting business in livestock in Alberta will be allowed to register a brand.

What name should I register the brand in?

Persons applying to register a brand will be required to identify the name they intend to use when selling livestock. They should use the legal name of their company or partnership. Unincorporated producers should use their proper legal name. This is the name they will put on the "owner line" on the manifest.

Since the name you use when you apply to register your brand is the name that will appear in the brand registry, it will be the name the livestock inspector looks at when doing a livestock inspection. It is also the name that a licensed livestock dealer (including auction markets) will use to prepare the cheque for the livestock you sell.

These provisions will apply to individual producers, corporations and partnerships.

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Owners of a registered brand will be required to keep LIS informed of any name changes. An inspector can place a hold on the sale proceeds where the person who presented the livestock for sale is not listed as the owner of the registered brand.

Can I register a brand in more than one name?

More than one name can be listed in the brand application. All of the names will be listed as owners if the brand is registered.

Can I change the name that my brand is registered in?

An owner of a registered brand can request that LIS change the name or names listed in the brand registry.

Will I be able to have someone else (like a dealer) sell my livestock for me?

A dealer can present another person's livestock for sale as long as the manifest indicates the registered brand owner's name on the "owner line" on the manifest.

What effect does the brand have in cases of stolen livestock?

In a prosecution for an offence under the provincial statutes, the fact that the livestock is bearing a brand is proof, in the absence of evidence to the contrary, that the owner of the registered brand has an ownership interest in the livestock.

What does putting a brand and livestock identifiers on an animal do?

The brand and livestock identifiers will continue to be a means by which an owner can visually identify animals that belong to the owner. However, the brand itself will not be a determination of ownership. For example, if livestock are bearing the brand of someone other than the person presenting the livestock for sale, as long as the person selling the livestock can produce a bill of sale from the owner of the registered brand or from a previous sale, then the seller will be assumed to have the right to sell the livestock.

The application of a brand will not necessarily override previous security interests or liens against the livestock.

How long will the brand be registered for?

Brands will continue to be lifetime brands. The estate will given the option of surrendering the brand so that others may apply to register and use the brand after a period of time. Upon death, the legal representatives of the owner of the registered brand can transfer the brand to the beneficiaries of the estate by notifying LIS. Brands that are not transferred or surrendered within two years of the date of death can be cancelled.

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Livestock Inspection FAQs

Where will livestock inspections be required?

Generally, livestock arriving at auction markets, country sales, feedlots, assembling stations and abattoirs will be required to be inspected. However, there will be exceptions, which will be dealt with in the regulations.

Where can LIS perform inspections?

LIS will be authorized to perform inspections at any location where livestock may be present including farms, pastures, feedlots, while being transported, and at sale points. Inspectors have the authority to enter any location (except a house) at any time to do an inspection or to collect records.

Where is livestock inspection not required?

A change in ownership of livestock alone will not trigger the requirement for a livestock inspection. For example, the transfer of ownership in share pen cattle will not require a livestock inspection if the cattle are not being moved to another feedlot. Similarly, a subsequent transfer of ownership occurring while livestock are still at an auction market or when the livestock are in transit will not require livestock inspection. A key determining factor as to whether brand inspection is required is the movement of livestock to and from designated inspection points.

What happens during an inspection?

The livestock inspector will examine the brands and other identifiers on the livestock and compare the information in the brand registry with the information on the paperwork associated with the livestock. When performing an inspection, livestock inspectors will inspect the livestock in a manner and at a level satisfactory to the inspector. Where there is a discrepancy between the brands and the accompanying paperwork (e.g., the person presenting the livestock for sale is not listed as the registered owner of the registered brand, the brands listed do not match the brands on the animal, or the information on the manifest do not include the registered brand owner's name) the livestock inspector will either detain the livestock or require that a hold be placed on the sale proceeds. If the paperwork is in order, no hold will be placed.

What happens to the sale proceeds when they are held and how is a hold released?

LIS will hold the sale proceeds in a trust account. The sale proceeds will be paid out when LIS is satisfied that the seller was the owner of the registered brand or had authorized possession of the livestock. If there are competing claims for the sale proceeds that involve the courts, LIS will pay the money into the court or to the person as the court orders. LIS will also be able to release hold funds where all of the claimants agree on where the money should be paid. If money remains under a hold for more than two years, the money will be paid into the Livestock Assurance Fund.

Dealer Licensing FAQs

Who is required to obtain a dealer's licence?

Anyone who buys or sells livestock and owns them for less than 30 days requires a licence. Also, anyone who acts as an agent in the buying or selling of livestock and makes direct payment to the seller requires a licence. Finally, anyone who assists in the buying or selling of livestock by compiling or providing information on livestock that are for sale and who handles the sale proceeds requires a licence.

What are the exceptions to the licensing requirements?

A person who owns livestock for more 30 days is not required to obtain a dealer's licence. The regulations will specify which public groups such as exhibitions, agricultural societies and 4H clubs will not require a licence to sell livestock.

Who is required to obtain a dealer's agent's licence?

Anyone who buys and sells livestock on behalf of and in the name of a dealer or who negotiates for livestock to be delivered to a licensed dealer needs an agent's licence.

Also, for corporations that are licensed dealers, any person who acts for the corporation in the buying and selling of livestock needs an agent's licence.

What happens if a dealer supports someone who is dealing without a required licence?

All dealers will be notified when a licence is suspended or cancelled. If, after being notified, a dealer is found to be supporting a suspended dealer engaged in unlawful buying and selling of livestock, the dealer risks having his or her licence suspended or cancelled as well.

Can a dealer appeal a licensing decision?

An appeal board will hear appeals from dealers who want a decision refusing their licence reviewed. If the appeal board refuses to grant the licence, the appeal board can restrict the dealer from reapplying for up to five years.

Decisions of the appeal board can be appealed to the Alberta Court of Queen's Bench.

Livestock Marketing FAQs

When must a buyer pay for livestock?

All purchasers will be required to pay within two business days after the later of possession or price discovery. An example of this would be if the livestock are being sold rail grade, then the payment must occur within two business days following the grading.

This provision for prompt payment will apply to all transactions and contracting out of this requirement is not permitted.

A dealer has to purchase and make payment under the name which the dealer is licensed.

Further clarification on what constitutes payment, possession and price discovery will be provided in the regulations.

What about misleading statements?

A dealer and dealer's agent will continue to be prohibited from making misleading statements about the livestock or their services.

Will livestock dealers be required to maintain trust accounts?

The money the dealer receives for the sale of livestock must be held in a trust account when the dealer is selling on behalf of another individual. A dealer will not be required to deposit sale proceeds into a trust account when the dealer is selling livestock the dealer owns.

Will dealers be required to post a bond or other security?

Dealers will be required to post a bond, irrevocable letter of guarantee or other security acceptable to the Minister. If the dealer fails to pay the seller for the livestock, the unpaid seller can claim against the dealer's bond or other security.

Shortfalls in the bond or other security can result in a claim to the Livestock Assurance Fund.

No bond or other security is required from a person who does not handle sale proceeds and only assists in the buying or selling of livestock by compiling or providing information on livestock that are for sale and who charges a fee for this service.

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Will the level of fines increase?

Fines will increase for violations of the legislation. Previously, fines were assessed up to \$5,000. The legislation now provides for the assessment of fines up to \$10,000 for the first offence and up to \$20,000 for a second offence. The fine for an offence may be imposed for each day of the contravention. The judge may impose the fine on each head of livestock in respect of the proven contravention.

Livestock Transactions

What is a statutory bar to conversion?

A statutory provision will be included in the legislation to protect buyers of Alberta livestock from claims by previous owners or security interest holders.

A buyer who has actual knowledge of the seller's security interest in the livestock or who did not issue payment according to the lien declaration on the manifest will not be eligible.

Also, if the Act requires the livestock to be inspected, the inspection must occur in order to be eligible for the protection.

Will the lien-security declaration on the manifest be mandatory?

The lien-security declaration on the manifest will be mandatory. A seller will be required to identify the lender holding a lien or security in the livestock. As part of their due diligence, buyers are expected to pay according to the manifest including making the cheque payable jointly to the owner of the registered brand and lender holding the security interest when a lien is declared.

Assurance of Payment and Protections for Sellers of Livestock FAQs

Livestock Assurance Fund

What is the Livestock Assurance Fund?

The Livestock Assurance Fund will be the continuation of the Livestock Patrons' Assurance Fund. The fund will continue to protect sellers from non-payment by licensed dealers (including auction markets and packing plants). The Fund will allow sellers to recover 80% of the value of the sale price.

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How will levies be collected?

Sellers are required to pay a levy each time they sell livestock. Typically, auction markets will remit the levy on behalf of the seller and deduct the levy from the payment for the livestock. Licensed dealers will remit levies at the beginning of each year based on the estimated volumes of transactions from the Statutory Declaration form that dealers currently file with LIS as part of their licence application. Dealers exceeding their estimate will be required to notify the Fund and pay additional levies.

Will participation in the Fund be mandatory?

The program is voluntary. However, in order to be eligible, you must have paid levies on all transactions. If you do not want to participate in the Fund, you need to send a notice to LIS. You will be required to continue to pay levies, but you can apply for a refund of the levies at the end of each year.

How will claims be processed?

Claims will continue to be reviewed by the Livestock Patron's Claims Review Tribunal, which will be renamed as the Livestock Assurance Funds Tribunal. The Tribunal is comprised of representatives from Alberta cattle associations.

Livestock Dealers' Assurance Fund

What is the Livestock Dealers' Assurance Fund?

The Livestock Dealers' Assurance Fund protects dealers from non-payment by non-licensed buyers. This Fund allows sellers to recover 80% of the value of the sale price.

How will levies be collected?

Licensed dealers will remit levies at the beginning of each year based on the estimated volumes of transactions from the statutory declaration form that dealers currently file with LIS as part of their licence application. Dealers exceeding their estimate will be required to notify the Fund and pay additional levies.

Will participation in the Fund be mandatory?

The program is voluntary. However, in order to be eligible, you must have paid levies on all transactions. If you do not want to participate in the Fund, you need to send a notice to LIS.

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Administration of the Legislation

Whose legislation is it?

The legislation is the Government of Alberta's with the Minister responsible being the Minister of Agriculture and Food.

Who will administer the legislation?

The legislation will continue to be administered by Livestock Identification Services Ltd. ("LIS"). LIS is a not-for-profit company established in 1998 as the delegated authority for the livestock identification legislation.

LIS is governed by an industry board of directors comprised of representatives from several Alberta cattle and horse associations.