

## HORSE-BREEDING ACT.

Act No. 58, 1940.

An Act to improve the breed of certain horses; to provide for the inspection and registration of certain stallions; to restrict the use for breeding purposes of stallions which are required to be registered but are not registered; and for purposes connected therewith. [Assented to, 13th December, 1940.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Horse-breeding Act, 1940." Short title and commencement.

(2) This Act shall commence upon a day to be appointed by the Governor, and notified by proclamation published in the Gazette.

(3) The Governor may from time to time, by proclamation published in the Gazette, exempt any part of the State from the operation of all or any of the provisions of this Act during such period as may be specified in the proclamation.

2. (1) In this Act, unless the context or subject-matter otherwise indicates or requires,— Interpretation.

"Appeal Board" means a board constituted under this Act for the purpose of hearing appeals.

"Approved

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“Approved standard” means a satisfactory standard in respect of type, conformation, and breeding.

“Chief Veterinary Surgeon” means the Chief Veterinary Surgeon of the Department of Agriculture and includes any person for the time being acting in his place.

“Owner” includes any person (other than a mortgagee not in possession) claiming jointly or severally any right, title, or interest in any stallion, and any person in possession or charge of a stallion.

“Prescribed” means prescribed by this Act or the regulations.

“Registered” means registered in pursuance of the provisions of this Act.

“Regulations” means regulations made under this Act.

“Stallion” means any male horse or donkey not wholly castrated and which is two years of age or over that age, but does not include any thoroughbred horse entered in the Australian Stud Book.

“Unsoundness” means any one or more of such diseases or defects as may by the regulations be declared to be unsoundness, and “unsound” shall have a corresponding interpretation.

“Veterinary officer” means a veterinary surgeon in the employment of the Department of Agriculture.

“Veterinary surgeon” means a veterinary surgeon registered under the provisions of the Veterinary Surgeons Act, 1923, and possessing the qualifications described in subsection one of section thirteen of that Act.

(2) For the purposes of this Act a horse shall be deemed to be one year of age on the first day of August next following the date of its birth and thereafter the age of the horse shall be computed from the said first day of August.

**3.** (1) On and after the thirty-first day of August next following the commencement of this Act and until the expiration of a period of three years from the said thirty-first day of August no person shall—

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Conditions  
on use of  
stallions.

- (a) have in his possession or charge a stallion unless a permit under this Act has been issued and is in force in respect of such stallion; or
- (b) use or permit to be used an unregistered stallion for breeding purposes:

Provided that paragraph (b) of this subsection shall not extend to the use of an unregistered stallion for breeding purposes at any time during the said period of three years if such stallion is used only with mares which are the property of the owner of the stallion and a permit under this Act has been issued to the owner in respect of such stallion.

(2) On and after the expiration of the period of three years from the thirty-first day of August next following the commencement of this Act no person shall have in his possession or charge a stallion unless such stallion is a registered stallion.

(3) On and after the expiration of the period of three years from the thirty-first day of August next following the commencement of this Act no person shall use or permit to be used an unregistered stallion for breeding purposes.

Any person contravening the provisions of this subsection shall be liable upon summary conviction—

- (a) for a first offence—to a penalty of not less than five pounds and not exceeding fifty pounds;
- (b) for a second or any subsequent offence—to a penalty of not less than ten pounds and not exceeding one hundred pounds.

**4.** (1) (a) The owner of every stallion shall, not later than the first day of March in each year, or within seven days after becoming the owner of the stallion after such date in any year, forward to the Chief Veterinary Surgeon a notice containing the prescribed particulars of such stallion.

Registration.

(b) No owner shall be entitled to have a stallion registered unless application for registration of

**No. 58, 1940.** of such stallion is forwarded with such notice. Such application shall be in or to the effect of the prescribed form and shall be accompanied by the prescribed fee for registration:

Provided that in such circumstances as the Chief Veterinary Surgeon considers exceptional an application for registration may be made at any time after such notice has been forwarded to him.

(c) Such fees shall be paid into an account in the Special Deposits Account in the Treasury to be called the Horse-breeding Fund, and the said fund shall be used to defray the expenses involved in the administration and carrying out of the provisions of this Act, and for such other purposes as may from time to time be approved by the Minister.

(2) Upon receipt of the first notification under paragraph (a) of subsection one of this section, forwarded to the Chief Veterinary Surgeon by the owner of a stallion, the Chief Veterinary Surgeon shall, if no application for the registration of such stallion is made, cause to be issued to the owner a permit to keep such stallion. The permit shall be in or to the effect of the prescribed form:

Provided that no such permit shall be issued after the expiration of a period of three years from the thirty-first day of August next following the commencement of this Act.

**Stallion examination parades.**

5. (1) Every owner of a stallion who applies for the registration thereof shall submit the stallion to examination by a veterinary officer at a stallion examination parade.

(2) Stallion examination parades shall be held at such times and places as shall be notified in the prescribed manner.

(3) If an owner requires the examination of a stallion at a time or place other than that notified under this section or at a time after the holding of any series of parades and before the holding of the next series of parades under this section, he shall, in the prescribed manner make application for a special examination and shall in addition to the prescribed fee pay to the Chief Veterinary

Veterinary Surgeon before such examination the expenses of the examination as estimated by the Chief Veterinary Surgeon.

(4) No person shall be entitled to a special examination of a stallion if in the opinion of the Chief Veterinary Surgeon the examination cannot conveniently be made, having regard to the distance to be travelled, or the time at the disposal of the veterinary officer.

(5) The owner of any stallion submitted for examination by a veterinary officer or by an Appeal Board shall—

- (a) produce for inspection by the veterinary officer or Appeal Board any certificate of registration or permit (if any) in force issued in respect of such stallion;
- (b) give to the veterinary officer or Appeal Board such particulars relating to the stallion as may be prescribed; and
- (c) render any reasonable assistance required by the veterinary officer or Appeal Board.

(6) If in the opinion of a veterinary officer or Appeal Board (as the case may be) the examination of a stallion would be attended with danger, the veterinary officer or Appeal Board may refuse to examine the stallion until provision has been made which in his or its opinion is adequate to obviate danger.

**6.** (1) As soon as practicable after the examination of a stallion by a veterinary officer he shall forward to the Chief Veterinary Surgeon a report in the prescribed form.

(2) No stallion shall be deemed to be approved unless the veterinary officer or Appeal Board examining the stallion reports to the Chief Veterinary Surgeon that the stallion is not unsound and is of approved standard.

(3) The Chief Veterinary Surgeon shall cause to be entered in a register the prescribed particulars of each approved stallion, and shall cause to be issued a certificate of registration in or to the effect of the prescribed form to the owner of the stallion.

(4)

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(4) The Chief Veterinary Surgeon shall cause to be issued to the owner of any stallion, which is not approved for registration under this Act, a permit, in or to the effect of the prescribed form, to keep such stallion:

Provided that no such permit shall be issued after the expiration of a period of three years from the thirty-first day of August next following the commencement of this Act.

**Duration of registration and permit.**

7. (1) The registration of each stallion and the certificate of registration issued in respect thereof shall come into force on the date of issue and shall, unless sooner cancelled, remain in force until the thirty-first day of August next following: Provided that a registration made and a certificate issued not more than six months before the thirty-first day of August in any year shall remain in force until the thirty-first day of August in that year and for a period of twelve months thereafter.

(2) A permit issued under subsection two of section four or subsection four of section six of this Act shall come into force on the date of issue and shall remain in force until the expiration of a period of three years from the thirty-first day of August next following the date of commencement of this Act.

**Cancellation of certificate.**

8. (1) The Chief Veterinary Surgeon may, from time to time by notice as prescribed, require the owner of any stallion registered as aforesaid to submit the stallion to further examination by a veterinary officer at a time and place specified in the notice.

(2) If the veterinary officer reports that the stallion is unsound, or if the stallion is not submitted for examination at the time and place specified in the notice, the Chief Veterinary Surgeon may cancel the registration of the stallion, and the owner shall thereupon return to the Chief Veterinary Surgeon the certificate issued in respect thereof.

**Appeals.**

9. (1) The owner of a stallion may within the prescribed time and in the prescribed manner appeal against the report of a veterinary officer which alleges that the stallion is unsound or not of approved standard.

(2)

(2) Before the hearing of any appeal the appellant shall pay to the Chief Veterinary Surgeon the prescribed fee, together with such sum for the costs and expenses of examination as the Chief Veterinary Surgeon may decide.

(3) For the purpose of hearing such appeals, there shall be constituted a panel of referees, which shall consist of—

- (a) such veterinary surgeons; and
- (b) such other persons, being in the opinion of the Minister competent judges of horses, as the Minister may appoint.

(4) An appeal made under this section shall be considered by an Appeal Board consisting of the Chief Veterinary Surgeon and two members of the panel of referees nominated by the Minister for hearing the appeal: Provided that when the appeal is against a report which alleges that the stallion is unsound, the two members shall be veterinary surgeons.

(5) The Appeal Board shall, subject to the provisions of subsection six of section five of this Act, examine any stallion in respect of which an appeal has been lodged under this section, and shall confirm or vary the report of the veterinary officer.

The decision of the Appeal Board shall be final.

(6) Where the report appealed against does not allege that the horse is unsound, the Appeal Board may postpone its decision for any period not exceeding twelve months.

(7) If the report of the veterinary officer is not confirmed by the Appeal Board any moneys paid by the appellant under subsection two of this section shall be refunded to him.

Such moneys shall not be refunded in any case in which the appellant fails to proceed with his appeal.

(8) The fee and expenses to be paid to a member of the Appeal Board other than the Chief Veterinary Surgeon in respect of an appeal shall be determined by the Minister.

**No. 58, 1940.****Registered stallions over five years of age.****Notice of sale, etc.****Onus of proof of age of stallion.**

**10.** Any stallion being five or more years of age which after due examination has been registered under this Act shall not, except by direction of the Minister, be subject to further examination under this Act.

**11.** (1) The owner of a stallion registered or in respect of which a permit has been issued under this Act shall—

- (a) give notice forthwith to the Chief Veterinary Surgeon in the prescribed manner of any sale or leasing or change in the ownership of the stallion or of its castration or death; and
- (b) return the certificate of registration of the stallion or the permit issued in respect of the stallion to the Chief Veterinary Surgeon on the castration or death of the stallion.

(2) If a stallion registered under this Act is sold or is leased for a period exceeding six months, or if the ownership of a stallion so registered is otherwise changed, the register shall be altered accordingly, and the certificate of registration of the stallion shall, on application to the Chief Veterinary Surgeon in the prescribed manner and on payment of such fee (if any) as is prescribed be transferred to the new owner by endorsement on the certificate or otherwise; but unless so transferred within one month after the change of ownership, the Chief Veterinary Surgeon may after the prescribed notice cancel the registration and the certificate.

**12.** (1) In any proceedings under this Act or in connection with the registration of a stallion the onus of proof of the age of any stallion shall be on the owner thereof.

(2) A document purporting to be a certificate under the hand of the Chief Veterinary Surgeon and stating that any stallion was or was not on any date or during any period mentioned in the certificate registered under this Act shall in any such proceedings be *prima facie* evidence of the facts stated.

(3) In any such proceedings *prima facie* evidence of any entry in the register may be given by production of a document purporting to be a true copy of such entry and purporting to be certified as such by the Chief Veterinary Surgeon.

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(4) An entry in the register shall in any such proceedings be *prima facie* evidence of the truth of all matters contained in it.

**13.** (1) No person shall exhibit or publish any statement, whether by way of advertisement or otherwise, intimating that an unregistered stallion is available for breeding purposes. Advertisement of unregistered stallion.

(2) Any person contravening the provisions of this section shall be liable to a penalty not exceeding twenty pounds.

(3) In any proceedings under this section, proof of the exhibition or publication of any such statement shall be *prima facie* evidence of exhibition or publication by the owner of the stallion therein mentioned.

(4) This section shall not apply to the editor, printer, or publisher of any newspaper who, bona fide and without negligence, publishes any such statement, not knowing at the time of the publication that the stallion referred to was unregistered.

**14.** (1) No person shall use (either alone or in combination with any other words or letters), with respect to an unregistered stallion, the name or title of "registered stallion," or a name, title, addition, or description implying that the stallion is registered or is recognised by law as a registered stallion. Use of title "registered stallion."

(2) Any person who knowingly uses any such name or title or addition or description in contravention of this section shall be liable to a penalty of not more than fifty pounds.

**15.** (1) Any inspector appointed under the Stock Diseases Act, 1923-1934, may, for the purposes of this Act, Powers of inspectors.

- (a) enter any land at any reasonable hour and inspect any stallion found thereon;
- (b) require the owner of the stallion to produce any certificate of registration or permit issued in respect of such stallion;
- (c) require the owner of the stallion to furnish such information as the inspector may require in respect of such stallion.

(2)

(2) Any person who—

- (a) hinders, obstructs or interferes with any inspector acting in pursuance of the powers conferred by this section; or
- (b) neglects or refuses to produce any such certificate or permit; or
- (c) neglects or refuses the information required or furnishes false information,

shall be liable upon summary conviction to a penalty not exceeding fifty pounds.

**Offences  
and penali-  
ties.**

**16.** (1) Any person who—

- (a) wilfully makes or causes to be made a false entry in, or falsification of the register, or a false copy of any entry therein; or
- (b) wilfully procures or attempts to procure the registration of any stallion by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing; or
- (c) forges or unlawfully alters, offers, utters, or puts off, knowing the same to be forged or unlawfully altered, any certificate of registration; or
- (d) knowingly gives any false particulars or information in relation to a stallion to the Chief Veterinary Surgeon or a veterinary officer or Appeal Board,

shall be liable upon summary conviction to a penalty not exceeding one hundred pounds.

(2) Any person who contravenes or fails to comply with any provision of this Act shall, unless a penalty is otherwise specifically provided in this Act for such contravention or failure be liable upon summary conviction to a penalty not exceeding fifty pounds.

**Regulations.**

**17.** (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out

*Section 17(1)(a)*

or

or giving effect to this Act; and in particular and without prejudice to the generality of the foregoing power, the Governor may prescribe—

- (a) the forms which shall be used under this Act;
- (b) the method of registration and cancellation of registration of stallions;
- (c) the method of service of notices required by this Act or the regulations;
- (d) the manner of inspection and examination of stallions;
- (e) the particulars which may be required by a veterinary officer or Appeal Board or the Chief Veterinary Surgeon in respect of any stallion;
- (f) the payment of fees;
- (g) the manner of appeal from the decision of a veterinary officer;
- (h) the terms and conditions to be observed by the holder of any permit issued under this Act;
- (i) the terms upon which stallions registered under Acts regulating horse-breeding in other States of the Commonwealth and other countries may be registered in this State without further inspection; and
- (j) the diseases or defects which shall be deemed to constitute unsoundness.

(2) The regulations may impose a penalty not exceeding fifty pounds for any breach thereof. Any such penalty may be recovered in a summary manner before a stipendiary or police magistrate or any two justices of the peace in petty sessions.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If

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If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

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