STOCK MEDICINES ACT 1989 No. 182

NEW SOUTH WALES

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Act No. 182, 1989

An Act relating to medicines for stock and other animals for the purposes of enhancing the quality of agricultural production, protecting the environment and safeguarding the health of stock and other animals; and for other purposes. [Assented to 14 December 1989]

See also Pesticides and Allied Chemicals (Amendment) Act 1989; Stock Foods and Medicines (Amendment) Act 1989.

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the Stock Medicines Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Definitions

3. (1) In this Act:

"**analyst**" means a person for the time being authorised under section 49 to be an analyst for the purposes of this Act;

"**Board**" means the Stock Medicines Board constituted by this Act;

"**clearance authority**" means any person or body declared for the time being to be the clearance authority under section 4;

"**Director-General**" means the Director-General of the Department of Agriculture and Fisheries;

"**food producing species**" means bees, buffalo, cattle, crustaceans, deer, fish (other than ornamental fish), goats, horses, kangaroos, pigs, poultry, rabbits, sheep and any other species prescribed as food producing species for the purposes of this Act;

"**inspector**" means a person for the time being authorised under section 48 to be an inspector for the purposes of this Act;

"**package**" includes anything in or by which any stock medicine is covered, enclosed, contained or packed;

"**permit**" means a permit under section 32 that is in force;

"**pest**", in relation to stock of any species, means any animal, or any plant or other biological entity, that injuriously affects the physical condition, worth or utility of stock of that species;

"**pharmacist**" means a person registered under the Pharmacy Act 1964;

"**registration periods**" means the period of 3 years commencing with 1 July 1990 and the periods of 3 years commencing with 1 July in each third year after 1 July 1990;

"**sell**" includes:

(a) auction or exchange; and

(b) offer or expose, supply or receive for sale; and

(c) send, forward or deliver for sale or on sale; and

(d) cause or permit the doing of anything referred to in paragraph (a), (b) or (c) or offer or attempt to do any such thing; and

(e) have in possession for sale;

"**stock**" means:

(a) food producing species; and

(b) any vertebrate animals (including mammals, birds, reptiles, amphibians and fish), and any other form of animal life, prescribed as stock for the purposes of this Act (whether by reference to a species or in any other way);

"**stock medicine**" means a substance or a mixture of substances that is represented as being suitable for, or is manufactured, sold or used for, administration or application to stock by any means, or for consumption by stock, for the purpose of:

(a) preventing, diagnosing, curing or alleviating a disease or condition in stock of any species or an infestation of stock of any species by a pest in relation to that species; or

(b) curing or alleviating an injury suffered by stock; or

(c) modifying the physiology of stock:

(i) so as to alter their natural development, productivity or reproductive capacity; or

(ii) so as to make them more manageable,

and includes any substance or any mixture of substances declared by the regulations to be a stock medicine for the purposes of this Act, but does not include any substance or any mixture of substances declared by the regulations not to be a stock medicine for those purposes;

"**stock medicine order**" means an order under section 34 that is in force;

"**substance**" includes:

(a) an organism; and

(b) material that is produced from an organism; and

(c) matter the production of which involves the use of an organism;

"**veterinary surgeon**" means a person registered as a veterinary surgeon under the Veterinary Surgeons Act 1986.

(2) In this Act, references to stock include references to individual members of any species or class of stock.

(3) In this Act:

(a) a reference to a clearance for a stock medicine is a reference to a clearance of the stock medicine for registration given by the clearance authority; and

(b) a reference to a certificate of clearance for a stock medicine is a reference to a certificate issued by the clearance authority and evidencing the clearance of the stock medicine for registration.

Clearance authority for registration of stock medicines

4. **(1)** The Minister may, by order published in the Gazette, declare that a person or body considered by the Minister to be of a national character is the clearance authority for the purposes of this Act.

(2) The Minister may, in the same manner, revoke any such order.

(3) A person or body may be declared (by the same order or different orders) to be the clearance authority for the purposes both of this Act and the Pesticides Act 1978.

Registration under the Pesticides Act 1978

5. If a substance or an organism is registered under the Pesticides Act 1978, it is not required to be registered under this Act.

No offence if activity authorised under certain other Acts

6. A person does not commit an offence against this Act if the act or omission which would (but for this section) constitute the offence is authorised by or under the Poisons Act 1966 or the Pesticides Act 1978.

PART 2 - REGISTRATION OF STOCK MEDICINES

Division 1 - General

Application for registration of stock medicines

7. (1) A person may apply, in or to the effect of the form approved by the Director-General, for registration of a stock medicine.

(2) An application made under this section is to specify:

(a) the name and business address of the applicant; and

(b) the distinctive name of the stock medicine; and

(c) the name of the manufacturer of the stock medicine and its place of manufacture; and

(d) the claims made as to the stock medicine's efficacy; and

(e) the proposed directions for use and application of the stock medicine,

and to contain such other particulars as are required by the Director-General.

(3) Any such application is to be lodged at an office of the Department of Agriculture and Fisheries accompanied by:

(a) the prescribed application fee; and

(b) the fee prescribed for the relevant registration period or, if registration is sought in the second or third year of the period, a fee equal to two-thirds or one-third, respectively, of the fee for the whole of the period.

Application for renewal of registration of stock medicines

8. (1) A person may apply to the Director-General for renewal of the registration of a stock medicine for a registration period (or part of a registration period):

(a) not later than 60 days before the commencement of the registration period; or

(b) if the registration of the stock medicine expires during the registration period, at any time before that expiry.

(2) If a stock medicine is registered during the 60 days occurring immediately before the commencement of a registration period, a person may, before the commencement of the registration period,

apply to the Director-General for renewal of the registration of the stock medicine.

(3) The Director-General may, despite subsections (1) and (2), accept a late application for the renewal of the registration of a stock medicine.

(4) An application for renewal of registration of a stock medicine:

(a) is to be in or to the effect of the form approved by the Director-General; and

(b) is to be lodged at an office of the Department of Agriculture and Fisheries accompanied by the fee prescribed for the relevant registration period.

Advice of Board on application

9. **(1)** The Director-General may refer an application for registration or renewal of registration of a stock medicine to the Board for its advice and recommendation.

(2) If the Board recommends that any such application be refused, it is to state its reasons for doing so.

Determination of applications for registration or renewal

10. **(1)** The Director-General, after having taken into account any report and recommendation of the Board about an application for registration or renewal of registration of a stock medicine, may:

(a) register or renew the registration of the stock medicine; or

(b) refuse the application.

(2) The registration of a stock medicine may be renewed even though its registration has expired and, on renewal, is to be taken to have been registered on the first day of the registration period for which the application for renewal was made.

(3) The Director-General registers or renews the registration of a stock medicine by making such entries as the Director-General thinks fit in a register of stock medicines maintained by the Director-General.

(4) The register of stock medicines may be maintained in or on any medium or combination of media capable of having information recorded in or on it or them.

(5) The Director-General may, from time to time, vary the manner or form in which the whole or any part of the register of stock medicines is maintained.

Division 2 - Additional requirements for registration when there is a clearance authority

Application of Division 2

11. This Division applies to an application for registration or renewal of registration of a stock medicine only if:

(a) there is a clearance authority when the application is being considered by the Director-General; and

(b) an application is able to be made to the clearance authority for clearance of that stock medicine.

Registration of stock medicines cleared by clearance authority

12. (1) The Director-General may register or renew the registration of a stock medicine only if there is a current clearance for the stock medicine at the time of registration or renewal of registration.

(2) Despite subsection (1), the Director-General may register, or renew the registration of, a stock medicine which is not cleared for registration if the Minister determines that it is in the interests of New South Wales to do so.

(3) The Minister may make such a determination only if:

(a) the control or eradication of the disease or pest concerned is of economic significance to New South Wales; or

(b) the likely use of the stock medicine would reduce, or would reduce the rate of increase in, a population of organisms that are resistant to other stock medicines or to pesticides used for the same purpose as or a similar purpose to the stock medicine; or

(c) the likely use of the stock medicine would be desirable because of climatic or soil conditions or a farming method or other practice relating to stock in New South Wales.

(4) The Director-General, as soon as practicable, is to notify the clearance authority of any registration or renewal of registration of a stock medicine under subsection (2).

Refusal to register

13. (1) The Director-General may not refuse an application for registration or renewal of registration of a stock medicine for which there is a current certificate of clearance unless the Minister determines that it is in the interests of New South Wales to refuse it.

(2) The Minister may make such a determination only if:

(a) the stock medicine has been cleared for use in the control or eradication of a disease or pest:

(i) that does not occur in or, if it occurs, is not of economic significance to New South Wales; or

(ii) in respect of which a control or eradication program is being undertaken in New South Wales, but evidence of the presence of the disease or pest is likely to be obscured by use of the stock medicine; or

(b) in the opinion of the Minister, the likely use of the stock medicine:

(i) would not be desirable because of a farming method or other practice relating to stock in New South Wales; or

(ii) would encourage the increase in New South Wales in a population of organisms that are resistant to other stock medicines or to pesticides used for the same purpose as or a similar purpose to the stock medicine; or

(iii) would not be desirable in relation to climatic or soil conditions in New South Wales; or

(c) in the opinion of the Minister, the likely use of the stock medicine would not be desirable because of:

(i) a risk to human health notified to the Minister by the Director-General of the Department of Health or the General Manager of the Workers Compensation and Rehabilitation Authority; or

(ii) a likely deleterious effect on the environment notified to the Minister by the Director of the State Pollution Control Commission or the Director of National Parks and Wildlife.

Additional uses of stock medicine

14. (1) When registering a stock medicine to which a current certificate of clearance relates, the Director-General may approve a

use of the stock medicine for which no claim is specified in the certificate if the use is for experimental purposes or will be on a small scale.

(2) The Director-General may approve an additional use of a stock medicine only if the use will not be likely to result in residues of the stock medicine that exceed any relevant maximum residue limits recommended by the National Health and Medical Research Council.

(3) The Director-General, as soon as practicable, is to notify the applicant and the clearance authority in writing of any such additional use of the stock medicine that the Director-General has approved.

Division 3 - Duration of registration

Duration of registration

15. (1) The registration or renewal of registration of a stock medicine takes effect:

(a) in the case of a registration - on the date of approval of the application for registration or, where an appeal has been lodged against the refusal of an application and the appeal is upheld, on the date when the appeal is upheld; and

(b) in the case of a renewal of registration - on the first day of the registration period in respect of which the application for renewal is made.

(2) A stock medicine continues to be registered until the end of the registration period for which the registration or renewal of registration was effected.

(3) If a clearance for a stock medicine has been granted on the condition that it remain current only for a limited period, the registration of the stock medicine remains in force only to the end of that period, unless the clearance authority removes the condition before the end of the period.

(4) Subsection (3) does not affect the period of registration of a stock medicine which was registered when there was no clearance authority.

Review of registration by the Board

16. (1) The Board may, at any time, review the registration of a stock medicine.

(2) The Board may, after such a review, recommend to the Director-General that the registration of the stock medicine be cancelled if, in its opinion, it would not have recommended registration of the stock medicine had an application for registration been made at the time of the review.

(3) When the Board makes such a recommendation, it may also, if in its opinion it is in the public interest to do so, recommend the suspension of registration until the expiration of the time for the making of an appeal or, if an appeal is lodged, until the appeal has been determined or withdrawn.

Cancellation of registration

17. (1) The Director-General may, on the recommendation of the Board, cancel the registration of a stock medicine.

(2) If there is a current certificate of clearance for a stock medicine when the Director-General is considering the recommendation of the Board to cancel the registration of the stock medicine, the Director-General may cancel the registration only if the Minister determines that it is in the interests of New South Wales to do so.

(3) The Minister may not make such a determination unless:

(a) the stock medicine has been cleared for use in the control or eradication of a disease or pest:

  (i) that does not occur in or, if it occurs, is not of economic significance to New South Wales; or

  (ii) in respect of which a control or eradication program is being undertaken in New South Wales, but evidence of the presence of the disease or pest is likely to be obscured by use of the stock medicine; or

(b) in the opinion of the Minister, the use of the stock medicine:

  (i) is not desirable because of a farming method or other practice relating to stock in New South Wales; or

  (ii) has encouraged the increase in New South Wales of a population of organisms that are resistant to other stock medicines or to pesticides used for the same purpose as or a similar purpose to the stock medicine; or

  (iii) is not desirable because of climatic or soil conditions in New South Wales; or

(c) in the opinion of the Minister, the use of the stock medicine would not be desirable because of:

(i) a risk to human health notified to the Minister by the Director-General of the Department of Health or the General Manager of the Workers Compensation and Rehabilitation Authority; or

(ii) a likely deleterious effect on the environment notified to the Minister by the Director of the State Pollution Control Commission or the Director of National Parks and Wildlife.

(4) Subsection (2) applies whether or not there was a clearance authority at the time of registration or renewal of registration of the stock medicine concerned.

(5) The Director-General may (whether or not on the recommendation of the Board) cancel the registration of a stock medicine if the Director-General would be required by this Act to refuse an application for registration of the stock medicine had an application for registration been made at the time of cancellation.

(6) The Director-General is not to cancel the registration of a stock medicine under this section until:

(a) written notice of the intended cancellation has been served on the last applicant for registration or renewal of registration of the stock medicine; and

(b) the Director-General has considered any representations concerning the intended cancellation made within 30 days of service of the notice.

When cancellation of registration takes effect

18. A cancellation of registration under section 17 has no effect until notice of the cancellation is served on the last applicant for registration or renewal of registration of the stock medicine and:

(a) if no appeal is made against the cancellation - 21 days have expired after that service; or

(b) if an appeal is made - the appeal is dismissed or withdrawn,

whichever occurs first.

Suspension of registration

19. (1) If the Board recommends to the Director-General that the registration of a stock medicine be suspended, the Director-General may, by notice in writing served on the last applicant for registration or renewal of registration of the stock medicine, suspend registration of the stock medicine for not more than 90 days.

(2) A stock medicine is to be taken to be unregistered during any period for which registration is suspended.

Withdrawal of clearance

20. (1) If the Director-General is notified that the clearance authority has withdrawn the clearance for a stock medicine, the Director-General is to cancel the registration of the stock medicine unless the Minister determines that it is in the interests of New South Wales that the stock medicine remain registered.

(2) The Minister may not make such a determination unless:

(a) the control or eradication of the disease or pest is of economic significance to New South Wales; or

(b) the use of the stock medicine has reduced, or has reduced the rate of increase in, a population of organisms resistant to other stock medicines used for the same purpose as or a similar purpose to the stock medicine; or

(c) the use of the stock medicine is desirable because of climatic or soil conditions or a farming method or other practice relating to stock in New South Wales.

(3) This section applies whether or not there was a clearance authority at the time of registration or renewal of registration of the stock medicine concerned.

Notices of cancellation

21. (1) When the Director-General cancels the registration of a stock medicine, the Director-General, immediately after the cancellation takes effect, is to ensure that a notification that complies with subsection (2) is published in at least one newspaper circulating generally throughout New South Wales.

(2) The notification is to:

(a) describe the stock medicine; and

(b) state that the stock medicine is no longer a registered stock medicine; and

(c) contain:

(i) instructions for the disposal of the stock medicine that have been approved by the Minister; and

(ii) a warning of the effect of a person's failure to comply with those instructions; and

(iii) any other warnings in relation to the stock medicine that the Director-General may think fit.

(3) If a person who has a stock medicine in his or her possession or custody is aware of any such notification that requires him or her to dispose of the stock medicine, the person must dispose of the stock medicine in accordance with the instructions contained in the notification.

Maximum penalty: 200 penalty units.

(4) During any period allowed for the disposal of the stock medicine by such a notification or, if no such period is specified, a reasonable period for disposal, a person who possesses or has custody of the stock medicine is not guilty of an offence under section 37 (possession of certain stock medicines).

Notices of suspension

22. **(1)** When the Director-General suspends the registration of a stock medicine, the Director-General, immediately after the suspension takes effect, is to ensure that a notification that complies with subsection (2) is published in at least one newspaper circulating generally throughout New South Wales.

(2) The notification is to:

(a) describe the stock medicine; and

(b) state that the stock medicine is unregistered for the period of its suspension; and

(c) contain a warning that use or supply of the stock medicine may constitute an offence against this Act.

(3) During the period of suspension of any stock medicine, a person who possesses or has custody of the stock medicine is not guilty of an offence under section 37 (possession of certain stock medicines).

Division 4 - Appeals

Notice of refusal of registration or cancellation to be served on applicant

23. If:

(a) an application for registration or renewal of registration is refused; or

(b) the registration of a stock medicine is cancelled under section 17 or 20,

the Director-General is to give written notice of the refusal or cancellation, and the grounds for the refusal or cancellation, to any person who applied for the registration or renewal of registration of the stock medicine, or who last so applied.

Appeal against refusal or cancellation of registration

24. (1) If an application for registration or renewal of registration of a stock medicine is refused, the applicant may, within 21 days after notice of the refusal has been served on the applicant or the application is required to be taken to have been refused, appeal against the refusal to the District Court unless, at the time of the refusal:

(a) Division 2 applied to the application; and

(b) there was no current clearance for the stock medicine.

(2) The Director-General is to be taken to have refused an application for registration or renewal of registration of a stock medicine, if the Director-General has not decided the application within 6 months of its being lodged or within such longer period as is agreed on by the Director-General and the applicant.

(3) If the registration of a stock medicine is cancelled under section 17, the last applicant for registration or renewal of registration of the stock medicine may, within 21 days after notice of the cancellation has been served on the last applicant, appeal against the cancellation to the District Court.

Hearing of appeal by District Court

25. (1) The District Court may summon witnesses, hear evidence and determine an appeal under this Division having regard to this Act, the regulations, the circumstances of the case and the public interest.

(2) An appeal is to be by way of a new hearing and new evidence may be given on the appeal.

(3) A District Court Judge may, in exercising the jurisdiction of that Court under this section, be assisted by 2 assessors, neither of whom may be a member of the Board.

(4) An assessor assisting the District Court may assist and advise the Court, but is not to adjudicate on any matter before the Court.

(5) One of the assessors is to be a veterinary surgeon appointed by the Minister and the other assessor is to be:

(a) the Dean of the Faculty of Veterinary Science of the University of Sydney or the person acting in that position; or

(b) if the Dean or acting Dean is not available or prepared to be an assessor, another veterinary surgeon appointed by the Minister.

(6) Each assessor is entitled to be paid a fee prescribed by the regulations for every day or part of a day during which he or she is involved in an appeal under this Division.

Costs of appeal

26. (1) The District Court may award costs in an appeal under this Division.

(2) Such costs may be enforced and recovered in the same way as costs awarded in other proceedings in the District Court.

Decision to be binding

27. A decision of the District Court on an appeal under this Division is binding on the Director-General and the appellant and is to be put into effect accordingly.

Division 5 - Supplementary

False or misleading statements

28. A person must not, in or in relation to an application for registration or renewal of registration of a stock medicine, make a statement or provide any information that the person knows, or has reason to believe, is false or misleading in a material particular.

Maximum penalty: 50 penalty units.

Requirement to notify certain deficiencies

29. (1) Each person concerned in the distribution of a stock medicine must notify the Director-General immediately if the person becomes aware of:

(a) any deficiency in the formulation of the stock medicine; or

(b) any contamination of the stock medicine; or

(c) any adverse reaction that the stock medicine may cause in animals or humans.

Maximum penalty: 50 penalty units.

(2) It is a defence under this section if the person satisfies the court that another person had notified the Director-General of the deficiency, contamination or adverse reaction concerned at the same time as, or before, the person became aware of it.

Additional information

30. (1) The Director-General may, by written notice served on any person who applies, or who last applied, for registration or renewal of registration of a stock medicine, require the person to provide such information as the Director-General may reasonably require for the purpose of deciding:

(a) the application for registration or renewal of registration; or

(b) if the stock medicine is registered, whether the registration should be cancelled.

(2) The Director-General may:

(a) refuse an application for registration or renewal of registration of a stock medicine; or

(b) if a stock medicine is registered, cancel the registration,

on the ground that the applicant or last applicant (as the case may be) for registration or renewal of registration of the stock medicine has failed to comply with any such requirement.

(3) A person must not, in purported compliance with any such requirement, provide any information that the person knows, or has reason to believe, is false or misleading in a material particular.

Maximum penalty: 50 penalty units.

(4) A person is not to be convicted of an offence under this section and under section 28 (false or misleading statements) arising out of the same facts.

Disclosure of information

31. A person must not disclose any information obtained in the administration or execution of this Act relating to the prescription or composition of any stock medicine unless the disclosure is made:

(a) with the consent of the person from whom the information was obtained; or

(b) in connection with the administration or execution of this Act; or

(c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings; or

(d) in accordance with a requirement imposed under the Ombudsman Act 1974; or

(e) with other lawful excuse.

Maximum penalty: 200 penalty units.

PART 3 - PERMITS AND OTHER AUTHORISATIONS

Permits

32. (1) The Director-General may issue a permit to do or omit to do any one or more things the doing or omission of which would, but for the issue of the permit and the operation of section 33, constitute an offence against this Act or the regulations.

(2) The Director-General may not issue a permit under this section unless it specifies:

(a) the person to whom it is issued; and

(b) the stock medicine or class of stock medicines in respect of which it is issued; and

(c) the purpose for which it is issued.

(3) A permit is subject to any term or condition that the Director-General thinks fit to impose and is specified in the permit.

(4) A permit remains in force, subject to any condition relating to its duration specified in it, until it is cancelled by the Director-General by written notice served on the permit holder.

Effect of permit

33. (1) A permit applies to:

(a) the person to whom the permit was issued; and

(b) any employee of that person acting in the course of his or her employment by that person; and

(c) if that person is a corporation - any person acting in his or her capacity as a director of the corporation.

(2) A person to whom a permit applies may, if he or she complies with the terms and conditions to which the permit is subject:

(a) do or omit to do anything in relation to a stock medicine or stock medicines of a class that the permit authorises to be done or omitted to be done; and

(b) have such a stock medicine in his or her possession or custody,

without contravening this Act or the regulations.

Stock medicines orders

34. (1) The Director-General may, with the consent of the Minister, make an order authorising all persons (or members of a class of persons specified in the order) to do or omit to do any one or more things the doing of which would, but for the making of the order and the operation of section 35, constitute an offence against this Act or the regulations.

(2) A stock medicines order is subject to any term or condition that the Director-General thinks fit to impose and is specified in the order.

(3) A stock medicines order remains in force, subject to any condition relating to its duration specified in it, until it is revoked by the Director-General by a further order.

(4) When the Director-General makes an order under this section, the Director-General is to ensure that it is published in the Gazette and at least one newspaper circulating generally throughout New South Wales.

Effect of stock medicines order

35. A person to whom a stock medicines order applies may, if he or she complies with the terms and conditions to which the order is subject:

(a) do or omit to do anything in relation to a stock medicine or stock medicines of a class that the order authorises to be done or omitted to be done; and

(b) have the stock medicine in his or her possession or custody,

without contravening this Act or the regulations.

PART 4 - STOCK MEDICINES BOARD

The Board

36. (1) There is established by this Act a Stock Medicines Board.

(2) The Board has the functions conferred or imposed on it by or under this or any other Act.

(3) The Board is to consist of 6 members, namely:

(a) the Chief, Division of Animal Health, Department of Agriculture and Fisheries; and

(b) the Director of Chemistry, Department of Agriculture and Fisheries; and

(c) the Director of Animal Health Research, Department of Agriculture and Fisheries; and

(d) the Chief Pharmacist of the Department of Health; and

(e) the Registrar of Stock Medicines (being a veterinary officer employed in the Department of Agriculture and Fisheries); and

(f) a veterinary surgeon appointed by the Minister.

(4) Schedule 1 has effect with respect to the members and procedure of the Board.

PART 5 - CONTROL OF STOCK MEDICINES

Possession of certain stock medicines

37. (1) A person must not have in his or her possession or custody an unregistered stock medicine unless:

(a) the stock medicine was prescribed or supplied by a veterinary surgeon, in the course of the practice of his or her profession, to deal with a particular condition of an animal or animals under his or her care; or

(b) the person is a pharmacist or veterinary surgeon who has possession or custody of the stock medicine in the course of the practice of his or her profession.

(2) A person must not have in his or her possession or custody a stock medicine (whether registered or not) consisting of or containing a restricted substance within the meaning of the Poisons Act 1966 that has been supplied to the person in contravention of that Act.

Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.

Use of unregistered stock medicines

38. (1) A person must not use an unregistered stock medicine on stock that is a member of a food producing species unless authorised to do so:

(a) under section 33 by a permit; or

(b) under section 35 by an order.

(2) A person must not use an unregistered stock medicine on stock that is not a member of a food producing species unless:

(a) the person is a veterinary surgeon and uses the stock medicine in the course of the practice of his or her profession; or

(b) the stock medicine:

(i) was prescribed or supplied by a veterinary surgeon, in the course of the practice of his or her profession, to deal with a particular condition of an animal or animals under his or her care; and

(ii) is used for that purpose in accordance with the instructions of the veterinary surgeon.

Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.

Use of registered stock medicine contrary to label

39. (1) A person must not use a registered stock medicine labelled "NOT FOR USE IN FOOD PRODUCING ANIMALS" on stock that is a member of a food producing species unless authorised to do so:

(a) under section 33 by a permit; or

(b) under section 35 by an order.

Maximum penalty: 200 penalty units.

(2) A person must not use a registered stock medicine in a manner contrary to any other instructions that the package of the stock medicine (or the label on the package) is required or permitted by or under section 44 to have on it when sold unless:

(a) the person is a veterinary surgeon and uses the stock medicine in that manner in the course of the practice of his or her profession; or

(b) the person uses the stock medicine in that manner in accordance with written instructions given by a veterinary surgeon; or

(c) the person uses the stock medicine in that manner because he or she is required to do so by an order in force under section 46.

Maximum penalty: 200 penalty units.

(3) It is a defence to a prosecution for an offence against subsection (2) that:

(a) there were instructions for the use of the stock medicine on the package or label at the time of the commission of the offence; and

(b) the person, at that time, did not know, and did not have reasonable grounds for suspecting, that those instructions were not (either wholly or partially) the instructions required to be on the package or label.

Prescription or supply of stock medicine by veterinary surgeon

40. (1) Unless the veterinary surgeon complies with subsection (2), a veterinary surgeon must not prescribe for use by any person or supply or authorise to be supplied to any person:

(a) an unregistered stock medicine; or

(b) a registered stock medicine, if the stock medicine is prescribed, supplied or authorised to be supplied for use in a manner contrary to any instructions that the package of the stock medicine (or the label on the package) is required or permitted by or under section 44 to have on it when sold; or

(c) a restricted substance within the meaning of the Poisons Act 1966.

Maximum penalty: 200 penalty units.

(2) When the veterinary surgeon prescribes, supplies or authorises the supply of such a stock medicine, the veterinary surgeon must give to the person for or to whom the stock medicine is prescribed or supplied, or who is authorised to supply the stock medicine, written instructions about the following matters:

(a) animal species for which the stock medicine is intended;

(b) withholding period;

(c) dose rate;

(d) frequency of treatment;

(e) length of treatment;

(f) manner of administration.

Offences relating to sale of stock medicines

41. (1) A person must not:

(a) sell an unregistered stock medicine; or

(b) sell a stock medicine under the name of a registered stock medicine, if the person knows the stock medicine sold does not conform with the registered prescription or composition of the registered stock medicine; or

(c) sell a stock medicine that does not comply with a standard prescribed for the stock medicine or for stock medicines of the class to which it belongs; or

(d) sell a registered stock medicine in respect of which any claim or statement as to its efficacy for a use other than a use required or permitted to be specified on its package (or label) by or under section 44 has been made by the person or with the person's consent.

Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.

(2) Subsection (1) (a) does not apply to the sale of a stock medicine if the stock medicine was prescribed or supplied by a veterinary surgeon, in the course of the practice of his or her profession, to deal with a particular condition of an animal or animals under his or her care.

Defence to certain prosecutions

42. (1) It is a defence to a prosecution for an offence against section 37 (1), 38 or 41 (1) (a) that the person did not know, and did not have reasonable grounds for suspecting, at the time of the commission of the offence, that the stock medicine concerned was unregistered.

(2) It is a defence to a prosecution for an offence against section 37 (2) that the person did not know, and did not have reasonable grounds for suspecting, at the time of the commission of the offence:

(a) that the stock medicine concerned consisted of or contained a restricted substance within the meaning of the Poisons Act 1966; or

(b) that the stock medicine concerned was supplied to the person in contravention of that Act.

Offences relating to advertising

43. (1) A person must not contravene any prohibition or requirement made by the regulations for the purposes of this section and relating to:

(a) the advertising of stock medicines or their uses; or

(b) claims, statements or representations relating to the use of stock medicines; or

(c) the dissemination of information concerning stock medicines or their uses.

Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.

(2) A person must not make, or cause to be made, to any other person any claim or statement, or publish, circulate or distribute (or cause to be published, circulated or distributed) any claim or statement:

(a) as to the efficacy of a registered stock medicine for a use other than a use for which the stock medicine is registered; or

(b) with respect to any stock medicine, if the person knows the claim or statement is false or misleading in any material particular.

Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.

(3) The Director-General may, on the recommendation of the Board, cancel the registration of a registered stock medicine if the last applicant for registration or renewal of registration of the stock medicine is convicted of an offence under this section in respect of the stock medicine.

Certain particulars to be on packages of stock medicines

44. (1) A person must not sell a package containing a registered stock medicine unless the package has on it, or on a label securely and conspicuously attached to it, in the prescribed manner (if any), the following particulars:

(a) the species of stock for which the stock medicine may be used;

(b) any limitations on the use of the stock medicine;

(c) any directions for use or disposal of the stock medicine, or other directions or warnings relating to safety or protection of people or animals or first aid;

(d) such other particulars (if any) as are required by the regulations.

(2) Subsection (1) does not:

(a) apply to the sale of a package containing a stock medicine prescribed or supplied or authorised to be supplied by a veterinary surgeon; or

(b) prohibit the sale of a package containing a stock medicine which has on it (or on a label attached to it) particulars relating to an additional use of the stock medicine that the Director-General has approved in accordance with section 14.

(3) A person must not alter, deface or obliterate any matter required by subsection (1) to be on a package or a label attached to a package with the intent that the package will be sold in contravention of that subsection.

Maximum penalty: 50 penalty units.

Certain matter prohibited in relation to stock medicines

45. A person must not:

(a) sell a package containing a registered stock medicine which has on it, or on a label attached to it; or

(b) publish, circulate or distribute (or cause to be published, circulated or distributed) any written or printed matter relating to any registered stock medicine which contains,

any reference to this Act, any words or other matter that contradicts, obliterates or varies particulars required by this Act or the regulations to appear on a package or a label of the stock medicine, or that is prohibited by regulations made for the purposes of this section.

Maximum penalty: 50 penalty units.

Supply and use bans and recall orders

46. (1) The Director-General may make an order under this section if the Director-General believes on reasonable grounds that the administration or application of a stock medicine or of each stock medicine of a particular class is likely:

(a) to endanger the health of the public, consumers of food or produce derived from stock or persons administering or applying the stock medicine; or

(b) to cause undue hazard to the environment; or

(c) to make stock ill.

(2) An order under this section may:

(a) prohibit or regulate the supply of the stock medicine or stock medicines of the class; or

(b) require any person who has supplied the stock medicine or stock medicines of the class to take such reasonable steps as are specified in the order to recover any such stock medicine from other persons to whom it has been supplied by the person; or

(c) prohibit or regulate the use of the stock medicine or stock medicines of that class by any person in relation to any specified species of animal.

(3) Any such order:

(a) if it applies to any named person (whether or not it also applies in any respect generally or to a specified class of persons) is to be served on the person; and

(b) if it applies in any respect generally or to a specified class of persons, is to be published in at least one newspaper circulating generally throughout New South Wales; and

(c) may relate to a registered stock medicine or to an unregistered stock medicine.

(4) When the Director-General makes an order under this section, the Director-General is to ensure that it is published in the Gazette and at least one newspaper circulating generally throughout New South Wales.

(5) Any such order takes effect:

(a) in so far as it applies to a named person, when it is served on the person; and

(b) in so far as it applies generally or to a specified class of persons, when it is published in the Gazette or on any later date specified in the order.

(6) A person must not wilfully contravene an order under this section.

Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.

Duration, tabling and disallowance of bans and recall orders

47. (1) An order under section 46 remains in force for the period (if any) specified in the order or until it is repealed.

(2) The Director-General may repeal any such order:

(a) if it applies only to a named person, by a further order served on the person; and

(b) in any other case, by a further order published in the same manner as the order being repealed.

(3) Sections 40 (notice of statutory rules to be tabled) and 41 (disallowance of statutory rules) of the Interpretation Act 1987 apply to any such order in the same way as they apply to a statutory rule.

PART 6 - GENERAL

Authorisation of inspectors

48. The Director-General may, by order in writing, authorise a member of the Public Service, or of the Public Service of the Commonwealth, or a member of the Police Force to be an inspector for the purposes of this Act.

Authorisation of analysts

49. (1) The Director-General may, by order in writing, authorise any person who, in the Director-General's opinion, has appropriate qualifications and experience, to be an analyst for the purposes of this Act.

(2) An analysis for the purposes of this Act may be carried out by a person acting under the supervision of an analyst and, in any such case, the analysis is to be taken to have been carried out by the analyst.

Powers of inspectors

50. (1) Any inspector may do any one or more of the following:

(a) enter and search any land, building, premises or place which the inspector has reasonable grounds for believing is used for the preparation, manufacture, sale, storage, delivery or preparation for sale of any stock medicine;

(b) enter and search any vehicle, ship, aeroplane or other means of transport which the inspector has reasonable grounds for believing is used for transporting a stock medicine in the course of trade, sale or delivery;

(c) examine any stock medicine which the inspector has found and open any package containing any such stock medicine;

(d) take for analysis or examination prescribed samples of any such stock medicine without payment;

(e) seize and remove any substance or article that the inspector believes on reasonable grounds to be a stock medicine and any container in which the substance or article is being kept or conveyed if the inspector suspects on reasonable grounds that there has been a contravention of this Act or the regulations in respect of the substance or article;

(f) give directions for or with respect to the detention of any substance, article or container that has been removed under paragraph (e);

(g) direct the occupier of any place where any such substance or article is seized, or the owner of the substance or article, to retain it in that place, or in a place under the control of the occupier or owner that will, in the opinion of the inspector, least endanger the health of the public, any person or animals or least endanger the environment;

(h) with the consent of the Minister, and at the expense of the owner of the stock medicine, destroy or render harmless, or give directions for the destruction or rendering harmless of, any stock medicine if:

(i) the inspector believes on reasonable grounds that it is necessary in the interest of the health of the public, any person or animals or in the interest of the environment; or

(ii) the owner of the stock medicine authorises the inspector in writing so to do;

(i) exercise the power conferred on him or her by paragraph (h) without the consent of the Minister where imminent danger to the health of the public, any person or animals, or to the environment, exists.

(2) An inspector may not enter a dwelling except:

(a) with the permission of the occupier of the dwelling; or

(b) under the authority conferred by a search warrant.

(3) The regulations may restrict the quantity or nature of samples of a stock medicine that may be taken by an inspector for analysis.

(4) If any inspector takes a sample of any stock medicine for analysis, the inspector is to:

(a) immediately divide the sample into 3 approximately equal parts and seal or fasten each part in a package (unless the stock

medicine is already in packages, in which case the inspector may instead take 3 packages); and

(b) attach to each part or package a label stating the name (so far as it is known to the inspector) of the occupier of the place at which the sample is taken (or any person apparently in occupation of the place), or of the person apparently having possession, custody or control of the stock medicine from which the sample was taken, and the time and place at which the sample was taken; and

(c) sign the label on each package and give each package to the person named on the label to sign it also; and

(d) give one of the packages to that person, keep one of the packages and deliver the remaining package to an analyst for analysis of the sample.

(5) The inspector is to deliver the package containing the sample for analysis to the analyst personally or in such other way as may be prescribed.

(6) The package kept by the inspector is to be dealt with as prescribed.

(7) In this section, references to a stock medicine include references to substances that may reasonably be suspected to be stock medicines.

Search warrant

51. **(1)** An inspector may apply to an authorised justice for the issue of a search warrant if the inspector has reasonable grounds for believing that a provision of this Act or the regulations has been or is being contravened in any dwelling or other place.

(2) The authorised justice to whom the application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising the inspector named in the warrant, when accompanied by a member of the Police Force:

(a) to enter any premises or place; and

(b) to search the premises or place for evidence of a contravention of this Act or the regulations.

(3) Part 3 of the Search Warrants Act 1985 applies to a search warrant issued under this section.

(4) In this section, "**authorised justice**" means a Magistrate or a justice of the peace employed in the Attorney General's Department.

Retention and disposal of seized property

52. (1) In this section, "**prescribed period**", in relation to any substance, article or container seized under section 50 (1) (e), means:

(a) the period of 6 months commencing from the time of seizure of the substance, article or container; or

(b) any other period fixed by a Local Court constituted by a Magistrate sitting alone on application by or on behalf of the Minister in the prescribed manner.

(2) During the prescribed period any substance, article or container seized under section 50 (1) (e) may be retained or may be returned to the person from whom it was seized (unless it has been forfeited to the Crown).

(3) At the expiration of the prescribed period, a substance, article or container seized under section 50 (1) (e) is to be returned to the person from whom it was seized, or to the person who appears to the Director-General to be its owner, unless:

(a) it has been forfeited to the Crown; or

(b) before the end of the prescribed period, the Director-General causes a notice to be advertised in the prescribed manner to the effect that application will be made on a specified day (after the end of the prescribed period) for its forfeiture to the Crown.

(4) As soon as practicable after the day specified in the notice, the substance, article or container to which any such notice relates is to be returned to the person from whom it was seized, or to the person who appears to the Director-General to be the owner, unless it is forfeited to the Crown.

Tampering with samples

53. (1) A person must not improperly tamper with any sample or package containing a sample taken under this Act.

(2) A person who is not authorised to do so must not remove, erase, alter, break or open any mark, label, seal or fastening placed by an inspector on any package containing a substance or article seized under this Act.

Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.

Inspector may require information

54. (1) An inspector may at any time require the buyer or seller of any stock medicine or of any substance or article reasonably suspected of being a stock medicine:

(a) to state the name and address of the person from whom the stock medicine, substance or article was bought or to whom it was sold; and

(b) to provide such other information in connection with the purchase or sale as the inspector may reasonably require; and

(c) to produce for inspection any invoice, agreement, circular or advertisement given to the buyer or seller in connection with the sale.

(2) A person must not, without lawful excuse:

(a) refuse or fail to comply with any such requirement to the extent that he or she is capable of complying with it; or

(b) refuse or fail to produce any such invoice, agreement, circular or advertisement.

Maximum penalty: 100 penalty units.

(3) In this section, a reference to a buyer or seller that is a corporation includes a reference to any officer or employee of the corporation.

Certificate of analyst to be evidence

55. (1) Any analyst who analyses a substance submitted for analysis under this Act may give a certificate in or to the effect of the form prescribed as to the result of the analysis.

(2) In any legal proceedings under this Act or the regulations, the production of a certificate purporting to be signed by an analyst is evidence of the identity of the substance analysed and of the result of

the analysis without proof of the signature of the person appearing to have signed the certificate.

Forfeiture

56. (1) If a person is convicted of an offence against this Act or the regulations, the court may order forfeiture to the Crown of any stock medicine to which the conviction relates.

(2) In any such case, the forfeiture may extend to the whole of the stock medicine, to the whole of any similar article and to all packages containing any similar stock medicine belonging to the defendant or in the defendant's possession at the time of committing the offence.

(3) All stock medicines forfeited under this Act are to be disposed of as the Minister may direct.

Costs of analysis

57. If a person is convicted of an offence against this Act in respect of any substance which has been analysed by an analyst under this Act, the court may award the reasonable expenses of and in connection with the analysis against the defendant as part of the costs of the prosecution.

Offence of obstructing inspectors

58. A person must not:

(a) prevent, delay, obstruct or hinder any inspector from or in the exercise or performance of the inspector's powers, authorities, duties or functions under this Act; or

(b) refuse or fail to comply with a direction of an inspector given in accordance with section 50 (1) to the extent that the person is capable of complying with it.

Maximum penalty: 50 penalty units.

Retaking of seized stock medicines

59. A person must not retake or attempt to retake any substance or article seized under this Act or ordered to be forfeited under this Act.

Maximum penalty: 50 penalty units.

Proceedings for offences

60. (1) Proceedings for an offence against this Act or the regulations may be dealt with summarily before a Local Court constituted by a Magistrate sitting alone or before the Supreme Court in its summary jurisdiction.

(2) If proceedings for an offence are brought before a Local Court, the maximum penalty that the Court may impose is 50 penalty units or the maximum penalty provided by this Act or the regulations in respect of the offence, whichever is the lesser.

(3) If proceedings for an offence are brought before the Supreme Court, the Court may impose a penalty not exceeding the maximum penalty provided by this Act or the regulations in respect of the offence.

(4) Any such proceedings commenced in a Local Court must be commenced by an information laid within 12 months after the time when the offence is alleged to have been committed.

(5) Proceedings for an offence may be taken and prosecuted only with the consent of the Minister.

(6) In proceedings for an offence, an authority to prosecute, purporting to have been signed by the Minister, is evidence of the authority of the Minister without proof of the Minister's signature.

Certificate of registration or non-registration

61. In any legal proceedings under this Act, the production of a certificate:

(a) purporting to be signed by the Director-General; and

(b) stating that, on a day or during a period specified in the certificate, any stock medicine was or was not registered under this Act,

is evidence of the facts certified without proof of the signature of the Director-General.

Service of notices

62. A notice or order under this Act may be served:

(a) on a natural person:

(i) by delivering it to the person personally; or

(ii) by leaving it at, or by sending it by pre-paid post to, the residential or business address of the person last known to the Director-General; or

(b) on a body corporate - by leaving it at, or by sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate.

Refund of fees

63. If in the opinion of the Director-General the circumstances warrant it, the Director-General may:

(a) on registering a stock medicine - refund to the applicant concerned any of the fee paid in respect of the relevant registration period if that fee is excessive in view of the period for which the stock medicine has been registered; and

(b) on the refusal of an application - refund to the applicant any or all of the fee paid in respect of the application; and

(c) on the cancellation of the registration of a stock medicine - refund to the applicant for registration or renewal of registration (as the case may be) any or all of the fee paid in respect of that registration that is attributable to such of the registration period as remains after cancellation.

Delegation by Director-General

64. The Director-General may delegate to a person any of the Director-General's powers, authorities, duties or functions under this Act, other than this power of delegation.

Regulations

65. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, the regulations may make provision for or with respect to the following:

(a) standards for stock medicines;

(b) regulating or prohibiting the supply of stock medicines;

(c) regulating or prohibiting the provision, administration or application of stock medicines to stock;

(d) regulating or prohibiting the introduction of stock medicines into New South Wales;

(e) regulating or prohibiting the advertising of stock medicines or their uses or the dissemination (otherwise than by advertising) of information concerning stock medicines or their application or uses;

(f) the manner in which the particulars relating to a stock medicine are to be written on the package containing it or on a label attached to the package and the manner in which a label containing the particulars is to be attached to a package;

(g) the size and type of labels to be attached to stock medicines;

(h) the forms to be used for the purposes of this Act and the regulations;

(i) the fees to be paid under this Act and the regulations;

(j) the methods of analysis for any stock medicine.

(3) A regulation may create an offence punishable by a penalty not exceeding 50 penalty units.

Savings and transitional provisions

66. Schedule 2 has effect.

Repeal of regulations and form

67. Regulations 6, 16, 17 and 18 and Form 2 of the Stock Foods and Medicines Regulations are repealed.

Amendment of Search Warrants Act 1985 No. 37, s. 10 (Definitions)

68. Section 10 of the Search Warrants Act 1985 is amended by inserting in the definition of "search warrant" in alphabetical order of Acts the following matter:

section 51 of the Stock Medicines Act 1989;

SCHEDULE 1 - PROVISIONS RELATING TO STOCK MEDICINES BOARD

(Sec. 36)

Chairperson of Stock Medicines Board

1. The Chairperson of the Board is to be the Chief, Division of Animal Health, Department of Agriculture and Fisheries.

Appointed member

2. (1) The appointed member of the Board is to hold office for such term, not exceeding 2 years, as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

(2) The Minister may remove the appointed member from office at any time.

Filling of vacancy in office of appointed member

3. If the office of the appointed member becomes vacant, a person is to be appointed, subject to this Act, to fill the vacancy.

Remuneration of appointed member

4. The appointed member of the Board is entitled to be paid such fee as is determined by the Minister for each meeting of the Board that he or she attends.

Nominee of member

5. (1) Each of the following members of the Board may nominate a person employed in the same Department as that of the member to act in the office of the member during his or her illness or absence:

(a) the Chief, Division of Animal Health, Department of Agriculture and Fisheries;

(b) the Director of Chemistry, Department of Agriculture and Fisheries;

(c) the Director of Animal Health Research, Department of Agriculture and Fisheries;

SCHEDULE 1 - PROVISIONS RELATING TO STOCK MEDICINES BOARD - *continued*

(d) the Chief Pharmacist, Department of Health;

(e) the Registrar of Stock Medicines.

(2) While a nominee is acting in the office of a member, the nominee is to have all the functions of the member and is to be taken to be the member.

Quorum

6. The quorum for a meeting of the Board is 3 members, including the Chairperson or the member nominated to preside at the meeting by the Chairperson.

Presiding member

7. (1) The Chairperson or, in the absence of the Chairperson, another member nominated to preside at the meeting by the Chairperson, is to preside at a meeting of the Board.

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

8. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

General procedure

9. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings, subject to this Act and the regulations, is to be as determined by the Board.

First meeting of the Committee

10. The Minister is to call the first meeting of the Board in such manner as the Minister thinks fit.

SCHEDULE 2 - SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 66)

PART 1 - GENERAL

Definition

1. In this Schedule, **"the 1940 Act"** means the Stock Foods and Medicines Act 1940 as in force immediately before its being amended by the Stock Foods and Medicines (Amendment) Act 1989.

Regulations

2. (1) The regulations may contain provisions of a savings and transitional nature consequent on the enactment of the following Acts:

this Act;

Stock Foods and Medicines (Amendment) Act 1989.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

PART 2 - PROVISIONS CONSEQUENT ON ENACTMENT OF THIS ACT

Existing registration

3. (1) A stock medicine registered under the 1940 Act, immediately before the commencement of section 10, is to be taken to have been registered under this Act (whether or not there is a current certificate of clearance for the stock medicine on that commencement).

SCHEDULE 2 - SAVINGS AND TRANSITIONAL PROVISIONS - *continued*

(2) Subclause (1) does not affect any provision of this Act relating to duration, cancellation or suspension of registration of stock medicines.

Pending applications for registration

4. (1) An application for registration of a stock medicine under section 13 of the 1940 Act pending immediately before the commencement of section 7 is to be taken to be an application made under section 7.

(2) An application for renewal of registration of a stock medicine under section 13 of the 1940 Act pending immediately before the commencement of section 8 is to be taken to be an application under section 8.

Stock Medicines Board

5. (1) The Board is a continuation of the Stock Medicines Board, as constituted under the 1940 Act immediately before the commencement of section 36.

(2) The member of the Stock Medicines Board holding office under section 12 (2) (c) of the 1940 Act immediately before the commencement of section 36 is to be taken to have been appointed by the Minister under that section for the remainder of his or her term of office.

(3) A person who, immediately before the commencement of section 36, was the nominee of a member of the Stock Medicines Board under section 12 (2A) of the 1940 Act is to be taken to have been nominated by the member under clause 5 of Schedule 1.

(4) Anything done by the Stock Medicines Board under the 1940 Act and having an effect immediately before the commencement of section 36 is to be taken to have been done by the Board under this Act.

Cancellations and suspensions

6. (1) A cancellation of registration of a stock medicine under section 15A of the 1940 Act that has not, immediately before the

SCHEDULE 2 - SAVINGS AND TRANSITIONAL PROVISIONS - *continued*

commencement of section 20, taken effect is to be taken to have been a cancellation under section 20.

(2) A suspension of registration of a stock medicine under section 15A of the 1940 Act that, immediately before the commencement of section 19, was in force, is to be taken to be a suspension under section 19.

Notices of refusal or cancellation

7. A notice of a refusal by the Director-General to register a stock medicine or of a cancellation by the Director-General of the registration of a stock medicine under section 16 (1) of the 1940 Act is to be taken to be a notice given under section 23.

Appeals

8. An appeal made under section 16 of the 1940 Act and pending immediately before the commencement of Division 4 of Part 2 is to be taken to be an appeal made under that Division.

Supply bans and recall orders

9. An order under section 19A of the 1940 Act that is in force immediately before the repeal of that section has effect as if that section had not been repealed.

Inspectors and analysts

10. A person who was an inspector or analyst under the 1940 Act, immediately before the commencement of section 48 or 49, respectively, is to be taken to have been authorised by the Director-General under section 48 or 49 to be an inspector or analyst (as the case may require) for the purposes also of this Act.

Seizure of stock medicines

11. If:

(a) a stock medicine has been seized under section 21 of the 1940 Act; and

SCHEDULE 2 - SAVINGS AND TRANSITIONAL PROVISIONS - *continued*

(b) proceedings for its forfeiture are pending (or have not been commenced) under section 22 of that Act, immediately before the repeal of that section,

section 22 of that Act has effect in relation to the forfeiture and disposal of that seized stock medicine as if it had not been repealed.

Certificates of analysts

12. A certificate of an analyst given under section 25 of the 1940 Act is to be taken to be a certificate given by the analyst under section 55.

Certificate of registration or non-registration

13. A certificate of the Director-General given under section 34 of the 1940 Act that any stock medicine is registered or not registered under that Act is to be taken to be a certificate of the Director-General given under section 61 that the stock medicine is registered or not registered (as the case may require).

[*Minister's second reading speech made in -*
Legislative Assembly on 14 November 1989
Legislative Council on 22 November 1989]