

**STOCK FOODS AND MEDICINES (AMENDMENT) ACT
1986 No. 122**

NEW SOUTH WALES



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STOCK FOODS AND MEDICINES (AMENDMENT) ACT 1986
No. 122

NEW SOUTH WALES



Act No. 122, 1986

An Act to amend the Stock Foods and Medicines Act 1940 with respect to the constitution and functions of the Stock Medicines Board and for other purposes. [Assented to, 27 November 1986]

Stock Foods and Medicines (Amendment) 1986

BE it enacted by the Queen'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:

Short title

1. This Act may be cited as the "Stock Foods and Medicines (Amendment) Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Principal Act

3. The Stock Foods and Medicines Act 1940 is referred to in this Act as the Principal Act.

Amendment of Act No. 19, 1940

4. The Principal Act is amended in the manner set forth in Schedules 1-4.

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE STOCK MEDICINES BOARD

(1) Section 12 (**Constitution of Stock Medicines Board**)—

(a) Section 12 (2)-(2c)—

Omit section 12 (2), insert instead:

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
STOCK MEDICINES BOARD—*continued*

- (2) The Board shall consist of 6 members, of whom—
- (a) 4 shall be the persons for the time being holding the following offices under the Public Service Act 1979:
- (i) Chief, Division of Animal Health, Department of Agriculture;
 - (ii) Director of Chemistry, Department of Agriculture;
 - (iii) Director of Animal Health Research, Department of Agriculture;
 - (iv) Chief Pharmacist of the Department of Health;
- (b) 1 shall be the person for the time being holding the office of Registrar of Stock Medicines, being a veterinary officer employed in the Department of Agriculture under the Public Service Act 1979; and
- (c) 1 shall be a veterinary surgeon appointed by the Minister.
- (2A) A member who holds an office referred to in subsection (2) (a) may nominate a person employed in the same Department as the member to act in the office of the member during any illness or absence of the member and any nominated person, while so acting, shall be deemed to be a member of the Board.
- (2B) The Chief, Division of Animal Health, Department of Agriculture, or, where a person is acting in the office of that member in accordance with subsection (2A), that person, shall be the Chairperson of the Board.
- (2C) The Chairperson may be referred to as the Chairman or Chairwoman, as the case requires.
- a) Section 12 (6)–(6C)—
- Omit section 12 (6), insert instead:
- (6) The quorum for a meeting of the Board is 3 members, including the Chairperson or the member nominated under subsection (6A) to preside at the meeting.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
STOCK MEDICINES BOARD—*continued*

(6A) The Chairperson (or, in the absence of the Chairperson, another member nominated to preside at the meeting by the Chairperson) shall preside at a meeting of the Board.

(6B) The person presiding at any meeting of the Board shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

(6C) A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present shall be the decision of the Board.

(2) Section 15 (**Applications for registration**)—

(a) Section 15 (1)—

Omit “Every application for registration, or renewal of the registration, of any stock medicine shall”, insert instead “An application for registration of a stock medicine may”.

(b) Section 15 (2)—

Omit “or the registration of the stock medicine be renewed, as the case may be,”.

(c) Section 15 (3)—

Omit “, or renewal of the registration,”.

(d) Section 15 (4)—

Omit “, on the recommendation of the Board,”.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
STOCK MEDICINES BOARD—*continued*

(e) Section 15 (4A)—

After section 15 (4), insert:

(4A) Where the Board has made a recommendation under this section to the Director-General with respect to an application for registration of a stock medicine, the Director-General shall not exercise any power under subsection (4) in relation to that application until after giving due consideration to the recommendation.

SCHEDULE 2

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES

(1) Section 17 (**Particulars on packages and labels**)—

Section 17 (3)—

Omit “one hundred dollars”, insert instead “\$5,000, unless the person is exempted by or under the regulations from complying with the requirement to which the alleged offence relates”.

(2) Section 18 (**Offences relating to sale or advertisement of stock medicines**)—

Section 18 (1)—

Omit “one hundred dollars for a first offence and not exceeding two hundred dollars for any subsequent offence”, insert instead “\$5,000”.

Stock Foods and Medicines (Amendment) 1986

SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*

(3) Section 19 (**Offences relating to advertising**)—

Section 19 (1)—

Omit “one hundred dollars for a first offence and not exceeding two hundred dollars for any subsequent offence”, insert instead “\$5,000”.

(4) Section 31 (**Penalty for offences**)—

Omit “one hundred dollars”, insert instead “\$1,000”.

(5) Section 35 (**Regulations**)—

Section 35 (3)—

Omit “one hundred dollars”, insert instead “\$1,000”.

SCHEDULE 3

(Sec. 4)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 2 (**Division into Parts**)—

Omit the section.

(2) Section 3 (**Interpretation**)—

(a) Definition of “Analyst”—

Omit the definition, insert instead:

“Analyst” means a person authorised under section 20 to be an analyst for the purposes of this Act.

(b) Definitions of “Bacteriologist”, “Biological product”—

Omit the definitions.

Stock Foods and Medicines (Amendment) 1986

SCHEDULE 3—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(c) Definition of “Inspector”—

Omit the definition, insert instead:

“Inspector” means a person authorised, or deemed to have been authorised, under section 20 to be an inspector for the purposes of this Act.

(d) Definition of “Manufactured stock food”—

From paragraph (b), omit “or nutritive as well as medicinal properties”.

(e) Definition of “Pharmacist”—

After the definition of “Package”, insert:

“Pharmacist” means a person registered under the Pharmacy Act 1964.

(f) Definition of “Prescribed”—

Omit the definition.

(g) Definition of “Sell”—

Omit “; and derivatives from “sell” have a corresponding meaning”.

(h) Definition of “Stock”—

Omit the definition, insert instead:

“Stock” means—

(a) any vertebrate animal (other than a human being);
and

(b) any other form of animal life,

prescribed as stock for the purposes of this Act, whether by reference to a species or otherwise.

(i) Definition of “Stock food”—

After “food” where lastly occurring, insert “, but does not include any stock medicine”.

*Stock Foods and Medicines (Amendment) 1986*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(j) Definition of “Stock medicine”—

Omit the definition, insert instead:

“Stock medicine” means any substance or organism which is represented as being suitable for administration or application to stock by any means, or for consumption by stock, for the purpose of—

- (a) diagnosing, curing or alleviating any injury or state or suspected state of ill health in stock;
- (b) preventing the occurrence of ill health in stock;
- (c) destroying any parasite or pest affecting stock; or
- (d) affecting the physiological functioning of stock.

and includes any substance or organism prescribed as a stock medicine for the purposes of this Act, but does not include any substance or organism declared by the regulations not to be a stock medicine.

(k) Definition of “Supply”—

After the definition of “Straw”, insert:

“Supply” includes sell.

(l) Section 3 (2)—

At the end of section 3, insert:

(2) In this Act—

- (a) a reference to ill health in stock is a reference to any departure from normal health and functioning of an animal irrespective of its cause; and
- (b) a reference to a wholesale dealer, in respect of any registered stock food or stock medicine or any unregistered stock food or stock medicine for which an application for registration has been made, includes a reference to the applicant for registration of the stock food or stock medicine.

SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued(3) Section 13 (**Registration of stock medicines**)—

(a) Section 13 (1) (c)—

After “manufacturer;”, insert “and”.

(b) Section 13 (1) (d), (e)—

Omit the paragraphs.

(c) Section 13 (1D)—

Omit “set out in paragraphs (a) to (f), inclusive, of subsection (1)”, insert instead “required to complete the form”.

(d) Section 13 (2)—

Omit the subsection, insert instead:

(2) An application under subsection (1), (1A) or (1B) shall be accompanied by the prescribed fee, which shall be applied as the annual fee—

(a) in the case of an application under subsection (1)—for the registration year in which the application is approved; and

(b) in the case of an application under subsection (1A) or (1B)—for the first registration year of the registration period in respect of which the application is made.

(e) Section 13 (3)—

Omit the subsection.

(4) Sections 13A, 13B—

After section 13, insert:

Supply of false information

13A. A person is guilty of an offence against this Act if the person in or in connection with an application for registration or renewal of registration of a stock medicine knowingly furnishes to the Director-General any information which is false or misleading in a material particular.

*Stock Foods and Medicines (Amendment) 1986*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
*continued***Request for information**

13B. (1) The Director-General may, by notice in writing served on a person who is or was the applicant for registration or renewal of registration of a stock medicine, require the person to furnish in writing to the Director-General within such time as may be specified in the notice, such information relating to the stock medicine as may be referred to in the notice and as may reasonably be requested for the purpose of the proper consideration of—

- (a) an application for registration or renewal of registration of the stock medicine; or
- (b) where the stock medicine is registered, the question of whether the registration should be cancelled.

(2) More than one notice may be served under this section on any one person.

(3) Where an applicant or former applicant for registration or renewal of registration of a stock medicine has failed to comply with a notice served under this section, the Director-General may—

- (a) refuse to register or renew the registration of the stock medicine; or
- (b) where the stock medicine is registered—cancel the registration.

(4) A person on whom a notice has been served under this section is guilty of an offence against this Act if the person, in purported compliance with the notice, knowingly furnishes any information which is false or misleading in a material particular.

(5) A person is not liable to be convicted of an offence under this section and under section 13A (supply of false information) arising out of the same facts.

SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

- (5) Section 15A (**Cancellation of registration**)—
- (a) Section 15A (4) (b)—
After “dismissed”, insert “or withdrawn”.
- (b) Section 15A (4) (b)—
After “dismissal”, insert “or withdrawal”.
- (6) Section 17 (**Particulars on packages and labels**)—
- (a) Section 17 (1)—
Omit “the words ‘Registered under the Stock Foods and Medicines Act, 1940’, together with such particulars as may be prescribed”, insert instead “such particulars as are prescribed in the manner prescribed”.
- (b) Section 17 (1A)—
Omit the subsection.
- (c) Section 17 (2)—
After “contain”, insert “any words or other matter the use of which is prohibited by regulations made for the purposes of this subsection or”.
- (d) Section 17 (3) (b)—
Before “reference”, insert “words, other matter or”.
- (7) Section 18 (**Offences relating to sale or advertisement of stock medicines**)—
- (a) Section 18 (1) (a1)—
After section 18 (1) (a), insert:
- (a1) sells any stock medicine which does not comply with a standard prescribed for the stock medicine or for stock medicines of the class to which it belongs;

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SCHEDULE 3—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(b) Section 18 (1) (c)—

Omit “other than those stated in the application for registration of such stock medicine”, insert instead “(other than a purpose stated in the application for registration of the stock medicine as a purpose for which the stock medicine may be used and which has not, by a notice served on the applicant, been rejected by the Director-General as an inappropriate purpose)”.

(c) Section 18 (3)—

After section 18 (2), insert:

(3) The regulations may provide that, for the purpose of subsection (1) (b), a stock medicine shall be deemed to conform with the registered prescription or composition of the stock medicine if it complies with prescribed standards relating to its composition or with other requirements made by or under the regulations.

(8) Section 19 (**Offences relating to advertising**)—

(a) Section 19 (1) (a)—

Before section 19 (1) (b), insert:

(a) contravenes, by act or omission, any prohibition or requirement made by the regulations with respect to the advertising of stock medicines or with respect to any claim, statement or representation relating to the use of stock medicines;

(b) Section 19 (1) (b)—

Omit “other than those stated in the application for registration of that stock medicine”, insert instead “(other than a purpose stated in the application for registration of the stock medicine as a purpose for which the stock medicine may be used and which has not, by a notice served on the applicant, been rejected by the Director-General as an inappropriate purpose)”.

SCHEDULE 3—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(c) Section 19 (3)—

After section 19 (2), insert:

(3) A person who contravenes, by act or omission, any prohibition or requirement made by the regulations with respect to the advertising of a stock medicine or its use or otherwise with respect to the dissemination of information concerning a stock medicine or its use shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding \$5,000.

(9) Section 19A—

After section 19, insert:

Supply bans and recall orders

19A. (1) 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 ill health in stock,

the Director-General may make an order under this section.

(2) An order under this section may—

- (a) prohibit or regulate the supply by a wholesale dealer of the stock medicine or stock medicines of the particular class to which it relates; or

*Stock Foods and Medicines (Amendment) 1986*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(b) require a wholesale dealer in, or another person who has supplied, the stock medicines or stock medicines of that class to implement such reasonable measures as are specified in the order for the purpose of recovering any stock medicine to which the order relates from persons to whom it has been supplied by the wholesale dealer or other person.

(3) Any such order—

(a) shall be in writing and is not effective until it has been served personally or by post on the wholesale dealer or other person to whom it relates;

(b) may relate to a registered stock medicine or an unregistered stock medicine; and

(c) shall cease to have effect 60 days after the date on which it is made unless within that period the Director-General has, pursuant to subsection (4), confirmed or revoked the order.

(4) The Director-General may, by a notice in writing served on the wholesale dealer or other person on whom an order under this section has been served, confirm or revoke the order.

(5) A wholesale dealer or another person served with an order under this section who, by act or omission, contravenes the order while it is in force shall be guilty of an offence against this Act.

(10) Section 20—

Omit the section, insert instead:

Authorisation of inspectors and analysts

20. (1) The Director-General may, by order in writing, authorise—

(a) 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; and

*Stock Foods and Medicines (Amendment) 1986*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(b) any person who has such experience and qualifications as the Director-General considers sufficient to be an analyst for the purposes of this Act.

(2) The Director-General shall not delegate the power to make orders under this section.

(3) Any person who, immediately before the commencement of this subsection, was an inspector or an analyst within the meaning of this Act shall, on that commencement, be deemed to have been authorised to be an inspector, or an analyst, for the purposes of this Act, by an order made under this section.

(11) Section 21 (**Powers of inspectors and officers**)—

(a) Section 21 (1)—

Omit “or any person duly authorised in that behalf under subsection (2) of section 20”.

(b) Section 21 (1) (e1)—

After section 21 (1) (e), insert:

(e1) seize any such stock medicine which is or appears to the inspector to be unfit for use;

(c) Section 21 (2) (a)—

Omit “or person duly authorised”.

(d) Section 21 (2) (e)—

Omit “or in the case of a stock medicine which is a biological product to a bacteriologist for examination. Such delivery to an analyst or bacteriologist may be effected either personally or in such other manner as may be prescribed”.

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SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(e) Section 21 (3), (4)—

After section 21 (2), insert:

(3) Delivery to an analyst, as referred to in subsection (2) (e), shall be effected personally by the inspector concerned or in such other manner as may be prescribed.

(4) The part of a sample retained by an inspector in accordance with subsection (2) (e) shall be dealt with as prescribed.

(12) Section 22 (**Destruction of seized stock foods or medicines**)—

(a) Section 22 (1)—

After “food” wherever occurring, insert “or stock medicine”.

(b) Section 22 (1)—

Omit “any police or stipendiary magistrate or any two justices in petty sessions”, insert instead “a Local Court constituted by a Magistrate sitting alone”.

(c) Section 22 (2)—

Omit “said magistrate or justices”, insert instead “Local Court”.

(d) Section 22 (2)—

Omit “adjudge such stock food to”, insert instead “or that the stock medicine is unfit for use, order that it shall”.

SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued(13) Section 24 (**Inspector may demand information**)—

Section 24 (1)—

Omit the subsection, insert instead:

(1) An inspector may at any time require the buyer or seller, whether by wholesale or retail, of any stock food or stock medicine—

- (a) to state the name and address of the person from whom the stock food or stock medicine was purchased or to whom the stock food or stock medicine was sold;
- (b) to furnish such other information in connection with the purchase or sale as the inspector may reasonably require; or
- (c) to produce for inspection any invoice, agreement, circular or advertisement given to the buyer or seller in connection with the purchase or sale.

(14) Section 25—

Omit the section, insert instead:

Certificate of analyst to be evidence

25. (1) Any analyst who analyses any stock food or stock medicine submitted for analysis in pursuance of 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 shall be prima facie evidence of the identity of the stock food or stock medicine analysed and of the result of the analysis without proof of the signature of the person appearing to have signed the certificate.

*Stock Foods and Medicines (Amendment) 1986*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(15) Section 27—

Omit the section. insert instead:

Costs of analysis

27. In the case of any conviction under this Act in respect of any stock food or stock medicine which has been analysed by an analyst in pursuance of 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.

(16) Section 28 (**Offence of obstructing inspectors**)—

Omit “or person duly authorised under subsection (2) of section 20”.

(17) Section 29 (**Interference with official marks or seals**)—

Omit “or authorised person”.

(18) Section 32 (**Recovery of penalties**)—

Omit “stipendiary or police magistrate or any two justices in petty sessions”, insert instead “Local Court constituted by a Magistrate sitting alone”.

(19) Section 33 (**Certificate not to be disputed unless notice given**)—

Section 33 (1)—

Omit “or bacteriologist”.

(20) Section 35 (**Regulations**)—

(a) Section 35 (2) (b)–(b4)—

Omit section 35 (2) (b), insert instead:

(b) prescribing standards for stock foods and stock medicines;

(b1) regulating or prohibiting the supply of stock foods and stock medicines;

*Stock Foods and Medicines (Amendment) 1986*SCHEDULE 3—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

- (b2) regulating or prohibiting the provision or administration or application of stock foods or stock medicines for or to stock;
 - (b3) regulating or prohibiting the introduction of stock foods or stock medicines into the State;
 - (b4) regulating or prohibiting the advertising of stock foods or stock medicines or their uses or the dissemination, otherwise than by advertising, of information concerning stock foods or stock medicines or their uses;
- (b) Section 35 (2) (e), (f)—
After “Act” wherever occurring, insert “and the regulations”.
- (c) Section 35 (2) (g)—
Omit “or examination”.
- (d) Section 35 (3A), (3B)—
After section 35 (3), insert:
- (3A) A provision of a regulation may—
 - (a) apply generally or be limited in its application by reference to specified exceptions or factors;
 - (b) apply differently according to different factors of a specified kind; or
 - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body.
- or may do any combination of those things.
- (3B) The regulations may prescribe standards or tests by reference to standards or tests specified in any work or document that has been published and is referred to in the regulations or by reference to any such standards or tests amended in any manner specified in any such work or document or specified in the regulations.

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SCHEDULE 3—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(21) Section 38—

After section 37, insert:

Delegation by Director-General

38. (1) The Director-General may delegate to a person the exercise of any of the functions of the Director-General under this Act, other than this power of delegation.

(2) A delegation under this section—

(a) shall be in writing;

(b) may be general or limited; and

(c) may be revoked, wholly or partly, by the Director-General.

(3) A delegate is, in the exercise of a function delegated under this section, subject to such conditions as are specified in the instrument of delegation.

(4) A function delegated under this section, when exercised by the delegate, shall be deemed to have been exercised by the Director-General.

(5) A delegation under this section does not prevent the exercise of a function by the Director-General.

(6) A function purporting to have been exercised by a delegate under this section shall, until the contrary is proved, be deemed to have been duly exercised by a delegate under this section.

(7) In this section—

(a) a reference to a function includes a reference to a power, an authority and a duty; and

(b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

SCHEDULE 4

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO SAVINGS
AND TRANSITIONAL PROVISIONS

Section 39, Schedule 1—

At the end of the Principal Act, as amended by this Act, insert:

Savings and transitional provisions

39. Schedule 1 has effect.

SCHEDULE 1

(Sec. 39)

SAVINGS AND TRANSITIONAL PROVISIONS RELATED TO THE
STOCK FOODS AND MEDICINES (AMENDMENT) ACT 1986

Interpretation

1. In this Schedule, "amending Act" means the Stock Foods and Medicines (Amendment) Act 1986.

Savings relating to the Board

2. Any act, matter or thing done by the Board, as constituted before the commencement of the amending Act, shall be deemed to have been done by the Board, as constituted after that commencement.

Saving relating to certain stock foods

3. (1) A manufactured stock food with medicinal properties which, immediately before the commencement of the amending Act, was registered under section 5A shall be deemed to have been registered (when it was registered as a stock food) under section 15 as a stock medicine.

(2) The regulations may make provisions for or with respect to the application of this Act to a manufactured stock food to which subclause (1) applies.

(3) Subclauses (1) and (2) cease to have effect on the expiration of the registration period current at the commencement of the amending Act.

Saving of certificates under section 25

4. A certificate given under section 25 by an analyst or bacteriologist before the commencement of the amending Act shall be deemed to be a certificate given under that section, as amended by the amending Act, by an analyst.

Stock Foods and Medicines (Amendment) 1986

SCHEDULE 4—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO SAVINGS
AND TRANSITIONAL PROVISIONS—*continued*

Saving of certain regulations

5. A regulation which, immediately before the commencement of the amending Act—

- (a) prescribed a form for the purposes of section 25; or
- (b) prescribed a penalty for a breach of a regulation,

shall be deemed to have been made under this Act, as amended by the amending Act.

Saving of awards under section 27

6. An award made under section 27 by a Court before the commencement of the amending Act shall be deemed to be an award made under that section, as amended by the amending Act, by the Court.
