

# EXOTIC DISEASES OF ANIMALS ACT 1991 No. 73

NEW SOUTH WALES



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## SCHEDULE 1—AMENDMENT OF STOCK DISEASES ACT 1923

DICTIONARY OF TERMS USED IN THIS ACT

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# EXOTIC DISEASES OF ANIMALS ACT 1991 No. 73

NEW SOUTH WALES



**Act No. 73, 1991**

An Act to provide for the detection, containment and eradication of certain diseases affecting livestock and other animals; to amend the Stock Diseases Act 1923 and certain other Acts consequentially; and for other purposes. [Assented to 17 December 1991]

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**The Legislature of New South Wales enacts:**

**PART 1—PRELIMINARY**

**Short title**

1. This Act may be cited as the Exotic Diseases of Animals Act 1991.

**Commencement**

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

**Definitions**

3. In this Act, a word or expression listed below has the meaning given to it in the Dictionary at the end of this Act:

animal  
animal product  
Chief Veterinary Officer  
declared area  
Director-General  
disinfected  
domestic animal  
dwelling  
exotic disease  
exotic disease agent  
fittings  
fodder  
free-living animal  
Fund  
inspector  
local newspaper  
owner  
permit  
place  
premises  
vehicle  
veterinary surgeon

**Crown bound by this Act**

4. (1) This Act binds the Crown not only in right of New South Wales but also, in so far as the legislative power of Parliament permits, in all its other capacities.

(2) Nothing in this Act renders the Crown, whether in right of New South Wales or otherwise, liable to be prosecuted for an offence against this Act or the regulations.

#### **Application of this Act to land**

5. (1) This Act, in so far as it confers any power that may be exercised in relation to land, applies to all land, whatever its status.

(2) In particular, this Act applies to premises, areas and places:

(a) that are the property of the Crown, or that are dedicated or reserved for any purpose, or protected or otherwise dealt with, under any other Act; or

(b) the care, control, management or supervision of which is vested in any statutory authority or other person.

(3) It is not necessary, in order for any premises, area or place to be made a declared area or to be quarantined under this Act, or for the validity of any order or the exercise of any power to enter premises or of any other power conferred by this Act, to obtain the consent of any person or body or to meet any requirements other than the requirements of this Act.

#### **Application of this Act to animals**

6. (1) This Act, in so far as it confers any power that may be exercised in relation to animals, applies to all animals, whatever their status and whether or not the property of the Crown or any person.

(2) In particular, this Act applies to animals:

(a) that are protected or otherwise dealt with under any Act; or

(b) the care, control, management or supervision of which is vested by any Act in the Crown or any statutory authority or other person.

(3) It is not necessary for the validity of any order under this Act for the destruction, confinement or other control or treatment of, or otherwise affecting, any animal, or for the exercise of any other power conferred by this Act in relation to animals, to obtain the consent of any person or body or to meet any requirements other than the requirements of this Act.

(4) Nothing in this Act authorises wanton cruelty to any animal.

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**PART 2—RESPONSIBILITIES OF ANIMAL OWNERS AND OTHERS****Duty to notify exotic diseases**

7. A person:

- (a) who owns or is in charge of, or has in his or her possession or control, an animal or animal product which the person suspects is infected with an exotic disease; or
- (b) who, as a veterinary surgeon or otherwise, is consulted in relation to an animal or animal product which he or she suspects is infected with an exotic disease,

and who does not, as soon as possible after becoming aware of or suspecting that the animal or animal product is infected, report the fact to an inspector by the quickest means of communication available to the person is guilty of an offence.

Maximum penalty: 200 penalty units.

**Separation of infected animals and products**

8. (1) A person who owns or is in charge of, or has in his or her possession or control, an animal or animal product which the person suspects is infected with an exotic disease must as far as practicable keep that animal or animal product separate from animals or animal products not so infected.

(2) A person who contravenes this section is guilty of an offence.

Maximum penalty: 200 penalty units.

**Possession or administration of exotic disease agents**

9. (1) A person who:

- (a) is in possession of an exotic disease agent; or
- (b) administers an exotic disease agent, or causes or permits the administration of an exotic disease agent, directly or indirectly to an animal; or
- (c) threatens to administer an exotic disease agent directly or indirectly to an animal,

is guilty of an offence.

Maximum penalty: 1,000 penalty units or imprisonment for 2 years, or both.

(2) This section does not apply to a person who has the authority of the Chief Veterinary Officer to be in possession of an exotic disease agent and who is acting in accordance with the regulations.

### **PART 3—DECLARED AREAS ETC.**

#### **Division 1—Infected places and infected vehicles**

##### **Declaration of infected place**

10. If the Minister reasonably suspects any premises, place or area within the State to be infected with an exotic disease, the Minister may by order in writing declare it to be an infected place.

##### **Declaration of infected vehicle**

11. If the Minister reasonably suspects any vehicle to be infected with an exotic disease, the Minister may by order in writing declare it to be an infected vehicle.

##### **Permit for entry or exit**

12. (1) A person (other than an inspector) who:
- (a) enters or leaves any premises, place or area declared to be an infected place or a vehicle declared to be an infected vehicle; or
  - (b) causes, permits or assists any other person to enter or leave any such premises, place, area or vehicle; or
  - (c) brings, moves, takes or allows any person to bring, move or take any animal, animal product, fodder or fitting into, within or out of any such premises, place, area or vehicle; or
  - (d) causes, permits or assists any vehicle to enter or leave any premises, place or area declared to be an infected place,

is guilty of an offence unless the person is authorised to do so by a permit and the person complies with any conditions set out in the permit.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

(2) Without limiting the powers of an inspector to attach conditions to a permit, a permit referred to in subsection (1) may be issued subject to the condition that the holder of the permit, or the animal, animal product, fodder, fitting or vehicle to which the permit relates:

- (a) must first be effectively disinfected to the satisfaction of the inspector and in a manner specified by the inspector before leaving or being taken out of the infected place or infected vehicle; and

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- (b) must not go or be brought to any other premises or place where any specified animals, animal products, fodder or fittings are located.

**Entry and exit points**

13. (1) Any movement of a vehicle into or out of an infected place, and any movement of persons, animals, animal products, fodder or fittings into or out of an infected place or infected vehicle, must be made only through a point or points specified in a notice issued by an inspector to the person in charge or in apparent control of the place or vehicle.

(2) The inspector may cause the notice to be published in a local newspaper.

(3) A person who knows or has reason to believe any premises, place or area to be an infected place or that a vehicle is an infected vehicle and who goes, or moves any other person, animal, animal product, fodder, fitting or vehicle, into or out of it in contravention of this section is guilty of an offence.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

**Notice of order declaring area or vehicle infected**

14. (1) Written notice of an order declaring any premises, place or area to be an infected place must be given to the owner or person in charge or in apparent control of the premises, place or area to which the order relates.

(2) Written notice of an order declaring a vehicle to be an infected vehicle must be given to the owner or person in charge or in apparent control of the vehicle to which the order relates.

**Division 2—Restricted areas****Declaration of restricted area**

15. (1) If, in the opinion of the Minister, there is a possibility that any premises, place or area within the State may be or become infected with an exotic disease, the Minister may by order in writing declare the premises, place or area concerned to be a restricted area.

(2) The declaration must identify the classes or descriptions of animals, animal products, fodder, fittings or vehicles that are affected by it.

### **Permit for entry or exit**

16. (1) A person who causes or permits any animals, animal products, fodder, fittings or vehicles to which the relevant declaration applies to be moved into, within or out of a restricted area is guilty of an offence unless the person is authorised to do so by a permit and the person complies with any condition set out in the permit.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

(2) Without limiting the powers of an inspector to attach conditions to a permit, a permit referred to in subsection (1) may be issued subject to the condition that the holder of the permit, or the animal, animal product, fodder, fitting or vehicle to which the permit relates, is effectively disinfected to the satisfaction of the inspector and in a manner specified by the inspector, before leaving or being taken out of the restricted area.

### **Variation of boundaries**

17. (1) The boundaries of a restricted area as fixed by the relevant declaration may, for the purpose of containment of an exotic disease, be varied by an order in writing signed by the Minister.

(2) The boundaries may be further varied, in so far as a restricted area includes any part of a roadway, by moving, in a manner appropriate to the new boundary, any sign placed pursuant to this Act as an indicator of its boundaries across the roadway.

(3) Any such variation must be notified in a local newspaper on the occasion of its first publication after the variation is made. A variation in accordance with subsection (1) takes effect on the date of that publication, but a variation in accordance with subsection (2) takes effect when the sign is moved to indicate the variation.

### **Entry and exit points**

18. (1) Any movement of animals, animal products, fodder, fittings or vehicles affected by the relevant declaration into or out of a restricted area must be made only through a point or points specified in a notice issued by an inspector and published in a local newspaper.

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(2) A person who knows, or has reason to believe, that any premises, place or area has been constituted a restricted area and who moves any animal, animal product, fodder, fittings or vehicles affected by the relevant declaration into or out of the premises, place or area in contravention of this section is guilty of 'an offence.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

**Notice of order constituting restricted area**

19. (1) Notice of an order declaring any premises, place or area to be a restricted area must be published in the Gazette and in a local newspaper.

(2) An order of which notice has not been so published within 14 days after it was made is taken (unless it has already been revoked) to have been revoked at the end of that 14-day period.

**Area restriction order**

20. (1) The Minister may, by order published in the Gazette and in a local newspaper (an "area restriction order"), direct the owners or persons in charge of any or any specified animals, animal products, fodder, fittings or vehicles within a restricted area to take measures specified in the order for the purpose of preventing, controlling or eradicating an exotic disease.

(2) An area restriction order takes effect on publication and may do any of the following:

- (a) require animals to be vaccinated, mustered or confined in a specified manner;
- (b) require facilities to be provided for the inspection, testing, vaccination or treatment of animals;
- (c) require animals, premises, vehicles or things to be disinfected;
- (d) require other measures to be taken which the Minister considers reasonably necessary in the circumstances.

(3) A person who contravenes an area restriction order is guilty of an offence.

Maximum penalty: 400 penalty units or imprisonment for 12 months, or both.

**Division 3—Control areas****Declaration of control area**

21. (1) The Minister may by order in writing declare any premises, place or area within the State to be a control area if, in the opinion of the Minister, this is reasonably necessary for the purpose of preventing the spread of an exotic disease.

(2) The declaration must identify the classes or descriptions of animals or animal products that are affected by it.

**Control orders**

22. (1). When directed by the Minister to do so, an inspector may, with respect to the whole or a specified part of a control area, by order in writing (a “**control order**”) prohibit, regulate or control any of the following:

- (a) the holding of markets, fairs, sales, shows, parades, race meetings or other gatherings or competitions involving animals or animal products;
- (b) the presence or exposure of specified animals or animal products at any place where animals or animal products are exposed for sale;
- (c) the presence or exposure of specified animals at any place where animals are exposed for exhibition, parade, race meetings or any form of recreation or competition;
- (d) the sale, presence or exposure of specified animals or animal products at places where animals or animal products are commonly made fit for human or animal consumption;
- (e) the movement of specified animals or animal products into, out of or within the control area

(2) A person who contravenes a control order is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

**Notice of order constituting control area**

23. (1) Notice of an order declaring any premises, place or area to be a control area must be published in the Gazette and in a local newspaper.

(2) An order of which notice has not been so published within 14 days after it was made is taken (unless it has already been revoked) to have been revoked at the end of that 14-day period.

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**Division 4—General****Permits**

24. (1) For the purposes of this Part, an inspector may grant a permit authorising the entry or exit to or from an infected place, infected vehicle or restricted area.

(2) The permit has effect for the period of time, and subject to my conditions, specified by the inspector in the permit. The inspector may specify such conditions as the inspector thinks fit, having regard to the nature and circumstances of the exotic disease and of the place, area or vehicle to which the permit applies.

(3) Any inspector may revoke or vary a permit at any time by notice in writing to the holder of the permit.

(4) The holder of a permit that has been revoked or varied must, on request by the inspector, immediately deliver the revoked permit to the inspector who revoked it or to a person nominated by that inspector.

Maximum penalty: 5 penalty units.

**Restraint of persons**

25. An inspector may, if in the inspector's opinion it is necessary to do so, use reasonable force to restrain a person who is acting contrary to a requirement of this Part from so acting.

**Interfering with fence or gate in declared area**

26. A person must not break down, damage or leave open a fence, gate or fastening:

- (a) that is used for confining any animal, or regulating or preventing the movement of any animal; and
- (b) that provides access to, or is within, a declared area.

Maximum penalty: 5 penalty units.

**Other powers and liabilities not affected**

27. Nothing in this Part in any way limits or affects:

- (a) the powers of an inspector under this Act; or
- (b) the liability of any person for an offence under any other provision of this Act.

**PART 4—OTHER POWERS OF THE MINISTER****Division 1—Border security****Entry of animals etc. from outside State**

28. (1) If the Minister reasonably suspects any premises, place or area outside the State to be infected with an exotic disease, the Minister may by order in writing (an “**importation order**”) absolutely prohibit, or impose conditions on, the entry or importation into the State of:

- (a) animals, animal products, fodder or fittings identified by the order;  
or
- (b) vehicles of a type usually used for the transportation of any such animals, animal products, fodder or fittings.

(2) Without limiting the nature or extent of conditions that may be imposed by an importation order, it may prohibit the entry or importation into the State of any description of animals, animal products, fodder, fittings or vehicles except at places specified in the declaration, and may specify tests or treatments to be applied to those animals, animal products, fodder, fittings and vehicles.

**Duration of importation order**

29. Unless sooner revoked, an importation order remains in force for a period of 30 days (or such shorter period as may be specified in the order). At the discretion of the Minister, however, it may from time to time be extended by notice published in the Gazette for further periods, in each case not exceeding 30 days.

**Notification of importation order**

30. Notice of an importation order is to be published in the Gazette as soon as practicable after the making of the order

**Contravention of importation order**

31. A person who causes, permits or assists any animal, animal product, fodder, fitting or vehicle to enter or be imported into the State, knowing that in doing so the person contravenes an importation order, is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

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**Division 2—Particular premises, animals etc.****Destruction of infected animals, premises etc.**

32. The Minister may by order in writing (a “**destruction order**”) require the destruction of

- (a) any domestic animal which is infected, or is reasonably suspected by the Minister to be infected, with an exotic disease; or
- (b) any premises (other than a dwelling) or any animal product, fodder, fittings or vehicle which the Minister reasonably suspects to be infected with an exotic disease and which cannot be effectively disinfected.

**Notice of destruction order**

33. A copy of a destruction order must be given before execution of the order to the owner or person in charge of the affected animal, premises, vehicle or other property, unless:

- (a) there appears to be no one immediately in control of it, and the owner or person in charge cannot, after such search and inquiry as is reasonable in the circumstances, be located; and
- (b) the Minister considers that, in the circumstances, the order must be carried out without prior notice to the owner or person in charge.

**Enforcement of destruction order**

34. (1) A destruction order may authorise an inspector to destroy or cause the destruction of any domestic animal, premises, vehicle or other property specified in the order.

(2) The owner or person in charge of an animal, premises, vehicle or other property that is the subject of a destruction order must, on request by an inspector, give any assistance the inspector may reasonably require in carrying out the order.

(3) A person who fails or refuses to assist an inspector as required by this section is guilty of an offence, but only if it is proved that, at the material time, the person was informed by the inspector that failure or refusal to comply with the request constituted an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

**PART 5—POWERS OF INSPECTORS****Division 1—Local quarantines****Quarantine of places and vehicles**

35. (1) An inspector who believes on reasonable grounds that, in order to prevent the spread of an exotic disease, it is necessary to make an order under this Division may by order in writing (a “**quarantine order**”) quarantine and keep secure any premises, place or vehicle so as to prohibit or restrict the movement of any animal, animal product, fodder or fitting on to or out of the premises, place or vehicle affected by the order.

(2) Where a quarantine order affects any premises or place, it may prohibit or restrict the movement of any vehicle on to or out of the premises or place.

**Duration of quarantine order**

36. A quarantine order is in force only:

- (a) for a period of 40 days from the giving of notice of the order; or
- (b) for such shorter or longer period as the Chief Veterinary Officer determines.

**Notice of quarantine order**

37. Written notice of a quarantine order, or of any determination of the Chief Veterinary Officer under this Division, must be given to the owner or person in charge or in apparent control of the premises, place or vehicle to which the order relates.

**Contravention of quarantine order**

38. A person who contravenes a quarantine order is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

**Division 2—Disinfection orders****Disinfection of places and vehicles**

39. (1) An inspector may by order in writing (a “**disinfection order**”) direct the owner or person in charge or in apparent control of any premises, place or vehicle to disinfect the premises, place or vehicle (along with any fodder or fitting within any such premises, place or

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vehicle and any vehicle within any such premises or place) if the inspector reasonably suspects the premises, place or vehicle concerned to be infected with an exotic disease.

(2) A disinfection order:

- (a) may specify the time within which the owner or person in charge or in apparent control is required to comply with the order; and
- (b) may specify the manner in which the disinfection is to be carried out.

**Contravention of disinfection order**

40. A person who fails to comply with a disinfection order is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

**Division 3—Power of seizure****Seizure for unauthorised movements**

41. An inspector may seize and impound any animal, animal product, fodder or fitting, or any vehicle:

- (a) that is placed, exposed, moved, imported or sold contrary to a prohibition or restriction imposed by or under this Act; or
- (b) which the inspector reasonably suspects to be infected with an exotic disease; or
- (c) which is astray in or near a declared area or at or near a place where there has been an outbreak of any exotic disease.

**Seized animals and property**

42. (1) If, in the opinion of an inspector, it is necessary to do so in order to avoid risk to life or property in connection with an exotic disease, the inspector may, with the approval of the Chief Veterinary Officer, destroy any animal or other thing seized under this Division.

(2) If it is not thought necessary to destroy the animal or other thing, it may be released by an inspector to anyone appearing to be lawfully entitled to it. At the time of release, the inspector may by order in writing require measures to be taken to eliminate any risk associated with it. Release may also be conditional on payment of any charges incurred, in accordance with the regulations, in connection with its impounding or other measures taken by an inspector.

**Division 4—Power to obtain information****Verbal and documentary information**

43. (1) For the purpose of preventing, controlling or eradicating an exotic disease, an inspector may do any of the following:

- (a) require a person to answer any question that the inspector reasonably believes may provide information bearing on the prevention, control or eradication of the disease;
- (b) require a person to state the person's name and place of residence;
- (c) require a person to produce any record or other document;
- (d) inspect and take extracts from or copies of any record or other document.

(2) Such a requirement is not duly made unless, at the time of making the requirement, the person of whom the requirement is made has been informed by the inspector that a refusal or failure to furnish the answer, record or document, as the case may be, constitutes an offence.

(3) A person cannot decline to answer any question that the person has been required to answer, or to produce any record or other document that the person has been required to produce, on the ground that the answer, record or document might tend to incriminate the person. If, however, before answering the question or producing the record or document, the person claims that the answer, record or document might tend to incriminate the person, then neither the question nor the answer, nor any record or document produced, is admissible in evidence against the person in any criminal proceedings other than proceedings relating to:

- (a) the refusal or failure to answer any question or produce any record or document; or
- (b) the furnishing of any answer, record or document that is false or misleading.

**Offences in connection with information**

44. (1) A person who refuses or who, without reasonable excuse, fails to answer on demand any question or to furnish on demand any record or document as required under this Division is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

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(2) A person who, having produced a record or document, prevents or hinders an inspector from inspecting, or taking extracts from or copies of, any record or document is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

(3) A person who, in response to a requirement under this Division, furnishes any answer, or any record or document, knowing that it is false or misleading in a material particular is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

**Division 5—Miscellaneous powers****Search and entry and other powers**

45. For the purpose of exercising the powers of an inspector under this Act, an authorised inspector, with or without assistants, may do any of the following:

- (a) enter and search any premises or place other than a dwelling;
- (b) with the consent of the occupier or in pursuance of a warrant, enter and search any dwelling;
- (c) stop, board, enter, search or detain any vehicle;
- (d) break open and search any box, container, package or receptacle (including any place that could be used as a receptacle);
- (e) muster, inspect, count, examine, mark for identification, test, vaccinate, treat, disinfect or take samples from any animal, animal product, fodder or fitting or any item or receptacle;
- (f) stop the movement or order the movement or mustering of any animal or animal product, for the purpose of any inspection, examination, test, vaccination, treatment, disinfection or the taking of samples;
- (g) remove or cause to be removed to another place any animal, animal product, fodder, fitting or vehicle or any item or receptacle;
- (h) inspect, examine, test, disinfect, fumigate or take samples from any premises, place, area, fodder, fitting or vehicle;
- (i) search for, track, mark for identification, test, treat, vaccinate or destroy any free-living animal.

**Requiring assistance**

46. (1) An inspector may by notice in writing direct an owner or person in charge or in apparent control of any premises, place, area or

vehicle that the inspector reasonably suspects to be infected with an exotic disease to give such reasonable assistance specified in the notice as the inspector requires for the purpose of exercising the inspector's powers or performing the inspector's functions under this Act.

(2) Such a notice may, or example, direct the person to whom it is addressed to do any of the following:

- (a) vaccinate any animal belonging to or under the control or in the charge of that person;
- (b) muster any animal belonging to or under the control or in the charge of that person;
- (c) confine, within an escape-proof enclosure or cage approved by the inspector, any animal belonging to or under the control or in the charge of that person;
- (d) repair any fence, cage, netting, gate, yard, enclosure or container to render it escape-proof to the satisfaction of the inspector;
- (e) provide such facilities, including yards and crushes, as the inspector requires to inspect, examine, treat, vaccinate or take samples from any animal;
- (f) muzzle any dog;
- (g) disinfect himself or herself in a manner specified by the inspector before leaving any premises, place, area or vehicle.

(3) A notice under this section:

- (a) must state the time within which the person to whom it is addressed is required to comply with the direction; and
- (b) may specify the manner in which the direction is to be carried out.

(4) A person who neglects or fails to comply with a direction given under this section is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, or both.

### **Request for assistance**

47. An inspector who is not a police officer may request the assistance of any police officer, if the inspector has reasonable cause to believe that the exercise of the inspector's powers or the performance of the inspector's functions under this Act will be obstructed.

Any inspector may request the assistance of any person the inspector believes to be capable of providing assistance in the exercise of the inspector's powers or in the performance of the inspector's functions under this Act.

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**Division 6—Ancillary matters****Search warrant**

48. (1) An inspector may make application to an authorised justice (within the meaning of the Search Warrants Act 1985) for a warrant authorising the inspector to enter a specified dwelling or to enter any premises, place, area or vehicle to which the inspector has been, or is likely to be, refused admission.

(2) If the authorised justice is satisfied that it is reasonably necessary that the inspector should have access to the dwelling, premises, place, area or vehicle concerned for the purpose of exercising the inspector's powers or performing the inspector's functions under this Act, the justice may grant a warrant authorising the inspector, with such assistants as may be thought necessary, to enter for that purpose.

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

**Production of identity card**

49. (1) If, pursuant to this Act, an inspector (other than a police officer wearing a police uniform):

- (a) enters any premises, place or area; or
- (b) boards, enters, stops or detains any vehicle,

an identity card must be produced, if requested, for inspection by the person in charge or in apparent control of the premises, place or vehicle.

(2) In this section, “**identity card**” means a document evidencing the inspector's appointment under this Act or the Stock Diseases Act 1923 as an inspector or a document evidencing that he or she is a police officer.

**Obstruction etc.**

50. A person who:

- (a) obstructs, hinders, assaults, bribes or threatens an inspector in the exercise of the inspector's powers or in the performance of the inspector's functions under this Act; or
- (b) obstructs, hinders, assaults, bribes or threatens a person assisting any such inspector, or
- (c) without lawful excuse, prevents or attempts to prevent a person from giving information to or being questioned by an inspector, or
- (d) threatens any person who has been questioned by, or who has furnished information or documents to, an inspector, or

(e) impersonates an inspector,  
is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 6 months, of both.

## **PART 6—THE EXOTIC DISEASES COMPENSATION AND ERADICATION FUND**

### **Establishment of the Fund**

51. The Treasurer is to establish and maintain in the Treasury an Exotic Diseases Compensation and Eradication Fund consisting of one account or, if the Treasurer so directs, more than one separate and distinct account for specific exotic diseases.

### **Payments to the Fund**

**52.** The following are payable to the credit of the Fund:

- (a) money payable to the State of New South Wales by the Commonwealth or any State or Territory of the Commonwealth in accordance with any arrangement made (whether before or after the commencement of this Act) by the Commonwealth or any State or Territory of the Commonwealth for the prevention, control and eradication of any exotic diseases;
- (b) any gifts made for payment into the Fund;
- (c) money appropriated by Parliament for the purposes of this Act;
- (d) any money from time to time advanced by the Treasurer for payment into the Fund.

### **Purposes of the Fund**

53. The Fund may be applied for any of the following:

- (a) the payment of expenses directly connected with controlling, eradicating or preventing the spread of any exotic disease except the normal salaries or wages of public servants who are or would be employed irrespective of any outbreak of an exotic disease;
- (b) the payment of compensation payable under this Act and all costs and expenses incidental to determining the compensation payable;
- (c) the payment of expenses incidental to the administration of the Fund and the distribution of surplus money in the Fund;
- (d) the repayment to the Treasurer of any money advanced to the Fund by the Treasurer.

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**PART 7—COMPENSATION****Application of this Part to diseases**

54. (1) This Part applies to any exotic disease declared by order of the Minister, in force for the time being, to be a disease to which this Part applies.

(2) Any such order, and any variation or rescission of any such order, take effect when published in the Gazette.

**Compensation of owners**

55. (1) Compensation is payable to the owner of

- (a) any domestic animal, premises, animal product, fodder, fittings or vehicle destroyed pursuant to this Act for the purpose of controlling, eradicating or preventing the spread of an exotic disease to which this Part applies; and
- (b) any domestic animal that was notified to the Director-General or an inspector as being affected by, or as having died of, an exotic disease and that is certified by an inspector authorised by the Chief Veterinary Officer as having died of an exotic disease to which this Part applies.

(2) Any premises, animal products, fodder, fittings and vehicles are collectively referred to in this Part as “**property**”.

**The “relevant time” for evaluation of compensation**

56. (1) The amount of compensation payable is the market value of the domestic animal or property immediately before the “relevant time” as indicated in this section.

(2) In the case of destroyed property that is not an animal, the relevant time is the time of destruction.

(3) In the case of an animal that died or was destroyed on account of a disease to which this Part applies, the relevant time is:

- (a) the time of its destruction; or
- (b) the time when the Director-General or an inspector was notified that it was affected by, or died of, the disease,

whichever time is earlier.

**Market value to take no account of disease**

57. In assessing the market value of an animal or other property for the purposes of this Part, the animal or thing concerned is to be regarded as not suffering from or affected by the disease concerned.

**Local markets**

58. In assessing the market value of an animal or animal product for the purposes of this Part, regard must be had to the value of comparable animals or animal products at the nearest most recent markets selling such animals or animal products, whether those markets are in this State or in any other State or Territory of the Commonwealth.

**Settlement**

59. (1) The market value of a domestic animal or other property may be determined by agreement between the owner of the animal or property and an inspector approved by the Chief Veterinary Officer.

(2) In default of agreement, the market value may be determined by a competent and impartial person jointly nominated for the purpose by the Minister and the owner.

**Other losses excluded**

60. No compensation is payable under this Part for any loss of profit, loss occasioned by breach of contract, loss of production or any other consequential loss.

**Claims**

61. A claim for compensation under this Part in respect of any domestic animal or property which has been destroyed or any domestic animal that has been certified by an inspector as having died of an exotic disease:

- (a) must contain the particulars prescribed by the regulations; and
- (b) must be lodged in the manner so prescribed within 90 days after the destruction or death or within such further time as the Minister may in a particular case allow.

**Recovery of compensation**

62. Disputed claims for compensation payable under this Part may be recovered by action against the Crown in any court of competent jurisdiction.

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**Reduction of amount claimed**

63. If a claim for compensation under this Part arising out of the destruction of any domestic animal or property, or the death of any animal, as a result of an outbreak of an exotic disease is lodged by an owner who has been convicted of an offence in this State, the Commonwealth or any State or Territory of the Commonwealth which has caused or contributed to:

- (a) the spread of that exotic disease; or
- (b) the destruction or death of any domestic animal in respect of which the claim is lodged; or
- (c) the destruction of any property in respect of which the claim is lodged,

the Minister may by instrument in writing direct that the compensation otherwise payable under this Part, or such part of it as the Minister thinks fit, not be paid.

**Disputed claims**

64. If any doubt or dispute arises as to the right or entitlement of a person to receive compensation, the Minister may cause the amount of the compensation payable, or a part of that amount, to be retained in the Fund until the person who is entitled to compensation has been established to the Minister's satisfaction.

**False claims**

65. Any person who lodges a claim for compensation knowing that it is false or misleading, or who practises or is concerned in any fraudulent act or omission for the purpose of obtaining compensation for the person or any other person under this Part, is guilty of an offence.

Maximum penalty: 50 penalty units or imprisonment for 3 months, or both.

**PART 6—ADMINISTRATION****Appointment of Chief Veterinary Officer**

66. (1) The Director-General may by instrument in writing appoint an officer employed in the Department of Agriculture to be Chief Veterinary Officer, and one or more other officers so employed to be Deputy Chief Veterinary Officers, for the purposes of this Act.

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(2) On such terms and in such circumstances as may be indicated in the instrument of appointment of any Deputy Chief Veterinary Officer, that Deputy may exercise the powers and perform the functions of the Chief Veterinary Officer.

**Delegation**

67. The Minister may, either generally or as otherwise provided by the instrument of delegation in writing, delegate to the Director-General, the Chief Veterinary Officer, a Deputy Chief Veterinary Officer or a person prescribed by the regulations all or any of the powers of the Minister under this Act.

**Appointment of inspectors**

68. The Chief Veterinary Officer may by instrument in writing appoint a person, or persons included in a class of persons, to be an inspector or inspectors for the purpose of the exercise and performance by that person or those persons of the powers and functions of an inspector under this Act or of such of those powers and functions as are specified in the instrument.

**Identity cards**

69. (1) The Chief Veterinary Officer is to issue to each inspector appointed under the Act an identity card in a form approved by the Chief Veterinary Officer.

(2) A person in possession of an identity card issued to the person under this section and who ceases to be an inspector must, as soon as practicable, return the identity card to the Chief Veterinary Officer or a person nominated by the Chief Veterinary Officer.

(3) A person who contravenes subsection (2) is guilty of an offence.

Maximum penalty: 5 penalty units.

**PART 9—MISCELLANEOUS****Suspicion of infection**

70. (1) For the purposes of this Act, an animal, place or thing may reasonably be suspected of being infected with an exotic disease if there is reason to think that an exotic disease agent is present in or on the animal, place or thing.

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(2) It is not necessary, in order to form a reasonable suspicion that an animal is infected with an exotic disease, for the animal to be exhibiting signs of the disease.

(3) An animal or thing may, for the purposes of this Act, be reasonably suspected of being infected with an exotic disease if it is or has been in or with a flock, group or herd, or is travelling or has travelled on any land or place, or in a vehicle, in which there was or is an animal infected with an exotic disease.

(4) This section does not prejudice any other evidence or consideration by which an inspector or other person might reasonably suspect that an animal, place or thing is infected with an exotic disease.

**Prosecution of offences**

71. (1) An offence against this Act for which the penalty provided by this Act (apart from section 72) exceeds 100 penalty units is an indictable offence.

(2) An offence against this Act for which the penalty exceeds 20 penalty units may, at the option of the prosecutor, be dealt with as an indictable offence if the defendant is a corporation.

(3) Except as provided by subsections (1) and (2), any offence against this Act or the regulations may be dealt with summarily in a Local Court constituted by a Magistrate sitting alone.

**Offences by corporations**

72. (1) If a corporation is convicted of an offence against this Act or the regulations, the court deciding on a penalty for the offence may, at its discretion, impose a penalty that is not more than 5 times the penalty provided by this Act (apart from this section) for the offence.

(2) This section does not authorise the imposition by a Local Court of a penalty exceeding 100 penalty units.

**Offences by officers of corporations**

73. (1) If a corporation contravenes a provision of this Act or the regulations, each officer of the corporation is taken to have contravened the provision if the officer knowingly authorised or permitted the contravention.

(2) An officer of a corporation may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been proceeded against or convicted under the provision.

(3) Nothing in this section affects a liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

(4) In this section, “**officer**” means a director of the corporation or a person who is otherwise concerned in its management.

#### **Non-compliance with order**

74. (1) If a person fails for any reason to comply with an order of the Minister or an inspector that is lawfully given to the person under this Act, an inspector may cause the direction given by the order to be carried out.

(2) All reasonable costs and expenses incurred by an inspector as a result of the failure of any person to comply with any such order may be recovered by the Minister from:

- (a) the person to whom the order was given; or
- (b) any other person who was responsible for that person’s failure to comply with the order,

as a debt due and owing to the Crown in any court of competent jurisdiction.

#### **Protection of Minister, inspectors and others**

75. (1) Nothing done or omitted to be done by the Minister, an inspector or any other person in good faith in the exercise or purported exercise of any power conferred by or under this Act subjects the Minister, inspector or other person to any personal liability.

(2) This section extends to apply to anything done or omitted to be done by a person who is requested by an inspector to provide assistance to that inspector in the exercise or purported exercise of any power or authority conferred on the inspector, as if the thing were done or omitted to be done by the inspector.

#### **Protection of control programs**

76. (1) The Minister may by order in writing certify that an outbreak of an exotic disease exists in any part or area of the State.

(2) When such an order has been made, no proceedings for an injunction, or for any order in the nature of a prerogative writ or of any other kind may be instituted or continued in any court against the Minister, an inspector or any other person that would stop, prevent or

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restrain the Minister, inspector or other person from taking or purporting to take any action or making any declaration or authorisation under this Act in relation to or in consequence of an outbreak or suspected outbreak of an exotic disease.

(3) An order under this section:

(a) comes into force on the date it is signed; and

(b) must be notified in the Gazette within 5 days after that date.

(4) Nothing in this section prevents the institution or continuation in any court of any action or proceedings to recover damages in respect of any loss incurred or damage suffered as a result of any act or omission in the negligent exercise or purported exercise by any person of a power or authority conferred by or under this Act.

**Posting of signs**

77. (1) An inspector may place signs, in a form approved by the Minister:

(a) at any place at or near the boundary of any declared area, to indicate the boundaries of the area or any restriction or prohibition relating to the area; or

(b) at any border of the State, to indicate that border; or

(c) at any place thought appropriate, to indicate the effect of any order made under this Act; or

(d) along roadways, to indicate that traffic should stop.

(2) The driver or person in charge of a vehicle approaching a stop-sign placed pursuant to this section must stop the vehicle and keep it stationary for the purpose of enabling an inspector to exercise any of the powers conferred by or under this Act on an inspector.

(3) Any driver or person who wilfully contravenes subsection (2), or who damages, defaces, removes or interferes with any sign placed pursuant to this section, is guilty of an offence.

Maximum penalty: 100 penalty units.

**Regulations**

78. (1) The Governor may make regulations, not inconsistent with this Act, prescribing matters required or permitted by this Act to be prescribed or 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:

- (a) the procedures for the valuation of domesticated animals or property; and
- (b) the powers and functions of particular inspectors or other persons engaged in the administration of this Act; and
- (c) requiring persons to keep records relating to matter relevant to the operation of this Act; and
- (d) the form of documents prepared for the purposes of this Act; and
- (e) conditional or unconditional exemption of persons from provisions of this Act or the regulations.

(3) The regulations may create offences punishable by penalties not exceeding 50 penalty units.

**Amendment of Stock Diseases Act 1923 No. 34**

79. (1) The Stock Diseases Act 1923 is amended as set out in Schedule 1.

(2) Money standing to the credit of the Foot and Mouth Disease Eradication Fund at the commencement of this section forms part of the Fund established under this Act.

**Amendment of Search Warrants Act 1985 No. 37, sec. 10**

80. The Search Warrants Act 1985 is amended by inserting in the definition of “search warrant” in section 10 in alphabetical order of Acts the following words:

section 48 of the Exotic Diseases of Animals Act 1991;

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**SCHEDULE 1—AMENDMENT OF STOCK DISEASES ACT 1923**

(Sec. 79)

- (1) Section 3 (**Definitions**):  
Omit the definition of “Special disease” from section 3 (1).
  - (2) Section 4 (**Diseases may be proclaimed**):  
Omit section 4 (2).
  - (3) Section 8A (**Further powers of inspectors in relation to special quarantine areas**):  
Omit the section.
  - (4) Section 10A (**Declaration of special quarantine areas**):  
Omit the section.
  - (5) Section 12A (**Powers of inspectors to stop, enter and search vehicles etc.**):  
From section 12A (1) and (4), omit “, special quarantine area” wherever occurring.
  - (6) Section 17 (**Power to order destruction**):  
Omit section 17 (3).
  - (7) Section 17A (**Inspectors’ powers to destroy stock or property in certain circumstances**):  
Omit the section.
  - (8) Part 4, Division 4 (**Compensation and the Foot and Mouth Disease Eradication Fund**):  
Omit the Division.
  - (9) Section 20K (**Additional penalty of imprisonment in certain cases**):  
Omit the section.
  - (10) Section 23 (**Power to make regulations**):  
Omit section 23 (1) (u), (1B) and (3A).
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**DICTIONARY OF TERMS USED IN THIS ACT**

(Sec. 3)

**animal means** any non-human mammal or any bird, insect, amphibian, fish, reptile, arthropod, insect, mollusc, crustacean or other member of the animal kingdom, whether alive or dead, and includes the egg, embryo, ova or sperm of an animal and any other product of an animal from which another animal could be produced;

**animal product means:**

- (a) the hide, skin, hair, wool, feathers, shell, horn or hoof of an animal, or
- (b) any meat, fat, milk, whey, cream, butter, cheese, eggs or other food or foodstuffs derived from an animal; or
- (c) any part of the viscera of an animal;
- (d) any dung, urine, faeces, bone or blood of an animal, or any article or substance derived from the dung, urine, faeces, bone or blood of an animal; or
- (e) any secretion of an animal; or
- (f) any product or biological preparation made or derived from any animal tissue or animal secretion; or
- (g) any article or substance derived from an animal, whether or not in combination with any other article or substance; or
- (h) any other article, substance or thing that is declared by the Minister, by order published in the Gazette, to be an animal product for the purposes of this Act;

**Chief Veterinary Officer** means the person appointed under this Act to be the Chief veterinary Officer,

**declared area** means an area declared under Part 3 to be an infected place, restricted area or control area;

**Director-General** means the Director-General of the Department of Agriculture;

**disinfected** means bathed with a disinfectant chemical or heated, irradiated, fumigated or otherwise treated so as to defeat infection;

**domestic animal** means any animal in a domesticated state or under the control of humans, regardless of whether animals of its species are categorised at common law as being of a tame or domestic nature;

**dwelling** includes any premises or part of any premises that is ordinarily used for residential purposes;

**exotic disease** means foot and mouth disease, rabies or any other animal disease the Minister declares by order published in the Gazette to be an exotic disease for the purposes of this Act;

**exotic disease agent** means any prion virus, rickettsia, bacterium, protozoon, fungus, helminth, arthropod, insect or other pathogen or organism that is capable of causing an exotic disease in animals;

**fittings** means any stall, box, cage, enclosure, pen or material used for penning, yarding or the containing of any animal, and includes any equipment, harness, saddlery, rope, bucket, trough, bedding, utensil and implement used in the handling, keeping or storage of animals, animal products or fodder,

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DICTIONARY OF TERMS USED IN THIS ACT—*continued*

**fodder** means any (or any mixture of) water, meal, meat, vegetable, grain or material used for the food or litter of animals;

**free-living animal** means any animal that is not a domestic animal;

**Fund** means the Exotic Diseases Compensation and Eradication Fund established under this Act;

**inspector** means:

- (a) an inspector under the Stock Diseases Act 1923; or
- (b) a police officer; or
- (c) a person appointed to be an inspector under this Act;

**local newspaper** for any place means a newspaper circulating throughout New South Wales or in a part of the State that includes that place;

**owner** of premises or of a domestic animal or other property means any person (other than a mortgagee or person with a Lien or chargee not in possession) having or claiming any right, title or interest in the premises, domestic animal or property, and includes the authorised agent of an owner and, in the case of premises, any occupier,

**permit** means a permit in force under Division 4 of Part 3;

**place** includes any wharf, pier, stage, landing place, jetty, foreshore, river, lake, inlet and harbour and any other body of water within the territorial limits of the State;

**premises** includes the whole or any part of any building, erection, structure and hoarding, whether or not it is ordinarily associated with animals or animal products;

**vehicle** includes a conveyance of any kind, whether or not self-propelled, and whether or not (at any material time) capable of being moved or operated, and includes:

- (a) any caravan, trailer, truck, train and other land vehicle; and
- (b) any ship, hovercraft, boat, ferry, raft and pontoon or other water craft; and
- (c) any aeroplane, helicopter, hot air balloon and other aircraft,

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

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[Minister's second reading speech made in—  
Legislative Assembly on 13 November 1991  
Legislative Council on 10 December 1991]