



New South Wales

Stock Diseases Amendment Act 1995 No 46

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New South Wales

Stock Diseases Amendment Act 1995 No 46

Act No 46, 1995

An Act to amend the *Stock Diseases Act 1923* with respect to the powers of inspectors and the sale of diseased stock; and for other purposes. [Assented to 26 October 1995]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Stock Diseases Amendment Act 1995*.

2 Commencement

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

3 Amendment of Stock Diseases Act 1923 No 34

The *Stock Diseases Act 1923* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 3 Definitions

Section 3 (1), definition of Director-General

Omit the definition. Insert instead:

Director-General means the Director-General of the Department of Agriculture.

[2] Section 3 (1), definition of Infected

Omit the definition. Insert instead:

Infected means:

- (a) in relation to stock—that the stock are diseased or have been on land on which there are, or have been within the preceding 12 months, diseased stock, or
- (b) in relation to a carcass—that the carcass is of infected stock, or
- (c) in relation to land—that the land is land on which diseased stock are present, or have been present during the preceding 12 months, except if that presence consisted only in the transport of the stock by vehicle over the land.

[3] Section 3 (1)

Insert in alphabetical order:

Protected area means land declared by the Minister to be a protected area under section 11A.

Record means any book, account, document, paper or other source of written information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means.

[4] Section 3 (1), definition of Quarantine area

Omit “(1) (c)” from paragraph (c).

[5] Section 5 Board of Tick Control

Omit “and Fisheries” from section 5 (5) (a).

[6] Section 6 Inspectors

Omit section 6 (1). Insert instead:

- (1) The Director-General may appoint a person to be an inspector for the purposes of this Act.

[7] Section 7 Powers of inspectors

Section 7 (1) (b)

Omit “take possession of”.

Insert instead “detain or take possession of”.

[8] Section 7 (1) (bii)

Insert after section 7 (1) (bi):

- (bii) order the owner or person in charge of stock to cause the stock to be tested for any disease in a manner approved by the Chief, Division of Animal Industries, whether or not the stock have previously been tested, and whether or not that testing was ordered or caused to be done by an inspector,

[9] Section 7 (1A)

Insert after section 7 (1):

- (1A) For the purposes of (and without limiting) subsection (1) (b), an inspector may detain or take possession of stock by displaying a notice stating that the inspector has detained or taken possession of the stock (as appropriate). The notice must be prominently displayed on, next to, or on a gate to, the pen, yard, paddock or other enclosure or area where the stock are located.

[10] Section 7 (2)

Insert “(bii) or” before “(c)”.

[11] Section 7 (4)–(6)

Omit section 7 (4). Insert instead:

- (4) For the purposes of subsection (3), an authorised officer is the Chief, Division of Animal Industries, a Senior Field Veterinary Officer or the Chairman of the Board of Tick Control.
- (5) An inspector may, in a manner approved by the Chief, Division of Animal Industries, brand or otherwise mark any stock or things:
 - (a) which the inspector otherwise suspects on reasonable grounds are infected, or
 - (b) which the inspector suspects on reasonable grounds have been moved contrary to this Act or a regulation or other instrument made under this Act, or
 - (c) which are straying, or the subject of any order, or seized, under this Act, or
 - (d) otherwise for the purpose of investigating or controlling diseases, even if the stock or things themselves are not infected.
- (6) An inspector may issue a written permit to a person who is the owner, or person in charge, of stock, permitting that person (despite the provisions of this Act) to move the stock in accordance with the terms of the permit.

[12] Section 7A Questions and inquiries by inspectors

Omit section 7A (2). Insert instead:

- (2) The person must also comply with any demand by the inspector to produce any record in the possession or

under the control of the person relating to the stock, carcass, fodder or fittings if the inspector has put a question to the person under subsection (1) and also warned the person that it is an offence not to comply with a demand under this subsection.

[13] Section 7A (3) and (4)

Omit “, document or paper” wherever occurring.

[14] Section 8 Further powers of inspectors in relation to infected stock

Section 8 (1) (a)

Omit “identified or treated”.

Insert instead “identified, tested or treated”.

[15] Section 8 (1) (a), (d) and (e)

Omit “as the inspector may require or as may be prescribed” wherever occurring.

Insert instead “as the inspector may specify (but subject to any requirement prescribed by the regulations)”.

[16] Section 8 (1) (f)

Omit “as may be prescribed to the satisfaction of the inspector”.

Insert instead “as the inspector may specify (but subject to any requirement prescribed by the regulations)”.

[17] Section 8 (5)

Insert after section 8 (4):

- (5) An inspector may order a person who enters or leaves a quarantine area, or who enters or leaves a vehicle, vessel or land which has been in contact with infected stock or an infected carcass or an infected thing, to disinfect the person’s clothes and footwear in such manner and within such time as the inspector may specify (but subject to any requirement prescribed by the regulations).

[18] Section 8C Personation of inspector

Omit the section.

[19] Section 9 Occupier etc to give notice

Insert after section 9 (1), (2) and (5):

Maximum penalty: 100 penalty units.

[20] Section 9 (3)

Omit section 9 (3). Insert instead:

- (3) A written notice referred to in subsection (1) or (2) is to be given to:
- (a) a ranger employed by the rural lands protection board for the rural lands protection district in which the stock are then located, or
 - (b) the district veterinarian for that district, or
 - (c) the Senior Field Veterinary Officer for the rural lands protection district in which the stock are then located.
- (3AA) The notice must state the following matters to the best of the knowledge of the person giving the notice:
- (a) the nature of the disease,
 - (b) the number and description of the stock and of the stock which are diseased or believed or suspected to be diseased,
 - (c) the location of the stock,
 - (d) the name and address of the owner of the stock,
 - (e) the name of the occupier of the land where the stock are located,
 - (f) if the stock are travelling, the name and address of the person in charge of the stock.

[21] Section 11 Undertaking in certain cases

Insert after section 11 (3):

- (4) For the purposes of this section, an inspector may, on behalf of the Minister, accept an undertaking given by an owner or occupier in a form acceptable to the inspector and release the owner or occupier from an undertaking.

[22] Section 12A Powers of inspectors to stop, enter and search vehicles etc

Omit “of a type prescribed” from section 12A (1).

Insert instead “of a type approved by the Chief, Division of Animal Industries”.

[23] Section 128

Insert after section 12A:

12B Bans on shows or sales

- (1) The Minister may, by order published in the Gazette, prohibit, or impose conditions on, the holding of agricultural shows or public sales of stock in a specified area if the Minister considers that such shows or sales are likely to facilitate the spread of a disease among stock.
- (2) A person must not hold or assist in holding an agricultural show or public sale of stock, or cause such a show or sale to be held, if the show or sale has been prohibited under this section.
- (3) A person who holds or assists in holding an agricultural show or public sale of stock, or causes such a show or sale to be held, must not do anything contrary to any condition imposed under this section on the holding of the show or sale.
- (4) An order under this section remains in force for the period (if any) specified in the order, or 6 months, whichever is the shorter.

Maximum penalty: 100 penalty units.

[24] Section 13 Power to order fencing

Omit section 13 (1)–(3). Insert instead:

- (1) The Minister may, by notice published in the Gazette, require all owners of land, and all lessees of any Crown land, within a quarantine area or a protected area, to fence the land within the time specified in the notice and in a manner sufficient to prevent any stock of a class specified in the notice from getting in or getting out.
- (2) If an inspector is of the opinion that there are stock of that class in the area where such a requirement is in force, on land which is not sufficiently fenced or enclosed to prevent stock of that class getting in or getting out, the inspector may, by notice in writing, order the owner of the land (or the lessee if it is Crown land) or the occupier of the land to carry out such fencing or repairs or additions to fencing as the inspector considers necessary, within the time specified in the notice.

[25] Section 17

Omit the section. Insert instead:

19 Power to order destruction

- (1) An order may be given to a person to destroy or dispose of infected stock or any carcass, or produce, of infected stock, or fodder or other thing used in connection with infected stock.
- (2) An order may be given to a person to destroy or dispose of stock or any carcass, or produce, of stock, or fodder or other thing used in connection with stock, if the stock, carcass, produce, fodder or other thing is in a quarantine area or protected area. For the purposes of this subsection, it does not matter whether the stock are infected or not.

- (3) An order under this section may be given:
 - (a) only if the person giving it is satisfied that the destruction or disposal would tend to prevent the spread or occurrence of disease, and
 - (b) only to the owner or person in charge of the stock, carcass, produce, fodder or other thing concerned or to any owner or occupier of land on which the stock, carcass, produce, fodder or other thing is located, and
 - (c) only by the Minister or a person authorised by the Minister for the purposes of this section.
- (4) Authorisation for the purposes of this section may be granted by the Minister to any one or more of the following:
 - (a) the Chief, Division of Animal Industries,
 - (b) Senior Field Veterinary Officers.
- (5) A person referred to in subsection (4) (a) or (b) cannot give an order under this section unless he or she has in possession a certificate of authorisation signed by the Minister and shows it on demand to the person to whom he or she gives the order. The certificate may be either an original or a copy made by facsimile transmission.

[26] Section 18 Proceedings in default of compliance

Insert after section 18 (2):

- (3) The requirements of an order under section 17 for destruction or disposal must not be carried out under this section without the express approval of the Chief, Division of Animal Industries, a Senior Field Veterinary Officer or the Chairman of the Board of Tick Control. That approval can only be given in a particular case.

[27] Section 19FA

Insert after section 19F:

19FA Wrong tags and brands

- (1) A person must not attach to stock (other than swine) a tag bearing particulars of identification, or cause or permit its attachment, unless by the attachment of the tag to them they are identified in accordance with this Part.
- (2) A person must not mark swine with a brand which sets out particulars of identification, or cause or permit that marking, unless by so marking them they are identified in accordance with this Part.

Maximum penalty: 100 penalty units.

[28] Section 20 Illegal introduction of stock

Insert before "Maximum penalty":

- (2) A person must not sell, assist in selling, offer for sale or attempt to sell stock if:
 - (a) the person has reason to believe or ought to know that the stock have been introduced into the State in contravention of subsection (1), and
 - (b) the stock have been so introduced, and
 - (c) since that introduction an inspector has not authorised the sale of the stock.

[29] Sections 20B, 20BA

Omit section 20B. Insert instead:

20B Sale of diseased stock

- (1) A person must not sell stock which the person has reason to believe, or ought to know, are diseased.

- (2) This section does not prevent the sale of diseased stock which an order under section 8 (1) (b) requires to be removed either to the place of the sale or to another place from the place of the sale.
- (3) This section does not prevent the sale of stock diseased only with footrot, sheep lice or *Brucella ovis* infection (or only with more than one of those diseases), if the sale takes place at a sale approved by a Senior Field Veterinary Officer for stock infected only with one or more of those diseases.
- Maximum penalty: 200 penalty units.
- (4) In this section, *sell* includes offer for sale, assist in selling and attempt to sell.

20BA Notice of public sale in quarantine area

A person must not hold a public sale of stock (even if the stock are not diseased) within a quarantine area if 14 days' notice in writing of the sale has not been given to an inspector.

Maximum penalty: 100 penalty units.

[30] Section 20C Movement of stock

Omit section 20C(1) (c). Insert instead:

- (c) into, within or out of a quarantine area or from infected land, or
- (d) if an inspector has ordered the stock to be tested under section 7 (1) (bii), the stock have not yet been tested in accordance with that order and an inspector has not given permission for the stock to be moved, or
- (e) otherwise in contravention of this Act or the regulations.

[31] Section 20C (3)–(5)

Omit section 20C (3). Insert instead:

- (3) A person does not commit an offence against this section by doing anything in accordance with a permit under section 7 (6) or an order under section 8 (1) (b) or if the person moves stock when all of the following conditions are satisfied:
 - (a) the stock are infected only with footrot, sheep lice or *Brucella ovis* infection (or only with more than one of those diseases),
 - (b) the stock are transported in a vehicle directly to an abattoir for the slaughter of the stock or directly to a sale approved by a Senior Field Veterinary Officer for stock infected only with one or more of those diseases,
 - (c) the stock are accompanied by a transported stock statement under the *Rural Lands Protection Act 1989*.
- (4) For the purposes of subsection (2) (c), the holder of an authority under the *Rural Lands Protection Act 1989* to walk or graze stock on a travelling stock reserve is not an occupier of that reserve.
- (5) The owner of a vehicle in which infected stock are transported in compliance with a permit or order (as referred to in subsection (3)) and any person having custody or control of the vehicle are guilty of an offence against this Act if any manure, hair and other matter which is, or can harbour, a disease or disease organism have not been cleaned from the vehicle immediately after the stock have left the vehicle.

Maximum penalty: 20 penalty units.

[32] Section 20D Straying stock

Omit “within a quarantine area or protected area” from section 20D (1).

Insert instead “within or out of a quarantine area or within a protected area”.

[33] Section 20F Interfering with a quarantine fence, gate or notice

Insert before “Maximum penalty”:

- (2) A person must not remove or interfere with a notice displayed by an inspector under this Act, unless the person is an inspector or does so with the authority of an inspector.

[34] Sections 20 FA, 20FB

Insert after section 20F:

20FA Treatment or seizure of stock

- (1) A person must carry out treatment ordered by an inspector, or prescribed by or under this Act, in accordance with the directions (if any) given to the person by an inspector.
- (2) A person must not remove or attempt to remove a chemical or solution from stock to which it has been applied as part of a treatment ordered by an inspector or prescribed by or under this Act, unless the person is an inspector or does so with the authority of an inspector.
- (3) A person must not recover, attempt to recover, or aid or permit another person to recover or attempt to recover any stock, carcass, fodder or other thing which an inspector has detained or taken possession of under this Act, unless the person is an inspector or does so with the authority of an inspector.

Maximum penalty: 100 penalty units.

28FB Feeding of prohibited substance to stock

- (1) A person must not feed a prohibited substance to stock or cause or permit stock to feed on a prohibited substance.
- (2) The owner and any person in charge of stock must take all steps that are reasonably practicable to prevent stock from having access to a prohibited substance.

- (3) This section does not apply in relation to stock prescribed by the regulations or in the circumstances (if any) prescribed by the regulations.
- (4) In this section, *prohibited substance* means a substance prescribed by the regulations as a prohibited substance.
Maximum penalty: 100 penalty units.

[35] Section 20G Person must not deface brand or mark with yellow pigment

Omit “alter or deface a brand” from section 20G (1).
Insert instead “alter, deface or remove a brand (or mark)”.

[36] Section 20I

Omit the section. Insert instead:

20I Obstruction

- (1) A person must not:
 - (a) assault or threaten an inspector in the exercise of the inspector’s powers under this Act, or
 - (b) assault or threaten a person assisting an inspector in the exercise of those powers, or
 - (c) threaten any person because the person has been questioned by, or who has furnished information or records to, an inspector in the exercise of those powers, or
 - (d) impersonate an inspector.Maximum penalty: 200 penalty units.
- (2) A person must not, without reasonable excuse:
 - (a) obstruct or hinder an inspector in the exercise of the inspector’s powers under this Act, or
 - (b) obstruct or hinder a person assisting an inspector in the exercise of those powers, or

- (c) prevent or attempt to prevent a person from giving information to or being questioned by an inspector acting in the exercise of those powers.

Maximum penalty: 100 penalty units.

[37] Section 23 Regulations

Section 23 (1) (g) and (v), (1A) and (1C)

Omit section 23 (1) (g) and (v), (1A) and (1C)

[38] Section 23 (1) (m)

Omit “stock are found or are pastured or kept”.
Insert instead “there are stock”.

[39] Section 23 (1) (n)

Omit “are depastured or kept”.
Insert instead “there are or have been”.

[40] Section 23 (1) (t)

Omit “in respect of any disease”.
Insert instead “or tested in respect of any disease or which there is reason to suspect are infected”.

[41] Section 24

Insert after section 23:

24 Savings, transitional and other provisions

Schedule 2 has effect.

[42] Schedule 2

Insert after Schedule 1:

Schedule 2 Savings, transitional and other provisions

(Section 24)

Part 1 Preliminary

1 Regulations

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

Stock Diseases Amendment Act 1995

- (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which a provision referred to in subclause (1) 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 the enactment of the Stock Diseases Amendment Act 1995

2 Definition

In this Part, *1995 Act* means the *Stock Diseases Amendment Act 1995*.

3 Inspectors

A person who was an inspector immediately before section 6 (1) was replaced by the 1995 Act continues in office as if the person had been appointed under that subsection (as so replaced).

4 Occupier's notice as to diseased stock

- (1) A notice given in accordance with section 9 before the amendment of that section by the 1995 Act is taken to have been given in accordance with section 9 as so amended.
- (2) If, before the amendment of section 9 by the 1995 Act, a person complied with that section to the extent of providing verbal notice by virtue of section 9 (4), that section is taken to continue in force in relation to that notice as if it had not been so amended until the time for confirming the notice would have elapsed had the section not been so amended.

5 Notice to stop vehicle

A type of traffic sign that, immediately before the amendment of section 12A by the 1995 Act, was a prescribed type of traffic sign under that section is taken to have been approved by the Chief, Division of Animal Industries on the day when that amendment commenced.

6 Notice to fence land

- (1) A requirement in force under section 13 immediately before the amendment of that section by the 1995 Act and contained in a notification published in the Gazette continues in force on and from the commencement of that amendment as if it had been contained in a notice under section 13 as so amended.
- (2) Any stock specified in such a notification is taken to have been specified as a class of stock for the purposes of the notice.

- (3) When a requirement in a notification continues in force as a requirement in a notice, the notice is taken to specify a reasonable time from the time when the notification was published as the time for the fencing to be carried out.
- (4) An order given by notice by an inspector, and in force, under section 13 before the amendment of that section by the 1995 Act continues in force under that section as so amended on and from the commencement of that amendment.
- (5) On and from that commencement, the time specified in an order saved under subclause (4) is taken to run from the day when that order was given before the commencement.

7 Destruction order

An order by the Minister in force under section 17 immediately before the replacement of that section by the 1995 Act continues in force under section 17 as so replaced.

[Minister's second reading speech made in—
Legislative Assembly on 20 September 1995
Legislative Council on 18 October 1995]