



New South Wales

# Stock Medicines Amendment Act 1995 No 47

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New South Wales

## **Stock Medicines Amendment Act 1995 No 47**

Act No 47, 1995

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An Act to amend the *Stock Medicines Act 1989* with respect to offences involving possession, use, supply and prescription of certain stock medicines; and for other purposes. [Assented to 26 October 1995]

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

**1 Name of Act**

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

**2 Commencement**

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

**3 Amendment of Stock Medicines Act 1989 No 182**

The *Stock Medicines Act 1989* is amended as set out in Schedule 1.

## Schedule 1 Amendments

(Section 3)

### [1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

*registered human pharmaceutical* means a therapeutic good (as defined in the *Therapeutic Goods Act 1989* of the Commonwealth) that is listed or registered in the Australian Register of Therapeutic Goods maintained under that Act.

*supply* includes do, or cause or permit the doing of, any of the following:

- (a) sell,
- (b) give,
- (c) offer to do an act that would be a supply (including an act referred to in any of the above paragraphs).

*withholding period*, in relation to a stock medicine, means the minimum period which should elapse between the last administration of the stock medicine and:

- (a) the slaughter for human consumption of an animal to which the stock medicine has been administered, or
- (b) the harvesting of wool, fibre, milk or eggs or the release of honey for human consumption from an animal to which the stock medicine has been administered.

### [2] Section 3 (1)

Omit the definition of *sell*. Insert instead:

*sell* includes do, or cause or permit the doing of, any of the following:

- (a) expose for sale,
- (b) send or deliver for sale or on sale,
- (c) dispose of under a hire purchase agreement,
- (d) exchange,
- (e) offer to do an act that would be a sale (including an act referred to in any of the above paragraphs),

and, for example, includes supply under a contract for work or labour that also involves the supply of any thing.

**[3] Section 68**

Insert after section 6:

**6A Application of Agvet Code to ~~veterinary~~ surgeons and persons acting under the instructions of veterinary surgeons**

- (1) The object of this section is to expressly permit veterinary surgeons, and persons acting under the instructions of veterinary surgeons, to do things that other provisions of this Act impliedly permit them to do, and so to exempt them from certain offences arising under Part 4 of the *Agvet Code*.
- (2) For the purposes of section 73 of the *Agvet Code*, it is declared that a veterinary surgeon is permitted to do anything:
  - (a) that constitutes an offence under this Act, or
  - (b) that would constitute such an offence (but for regulations under the *Agricultural and Veterinary Chemicals (New South Wales) Act 1994* suspending provisions of this Act),

if the provision giving rise to the offence expressly excludes the veterinary surgeon from the application of that provision.

(3) Subsection (2) does not exempt a person from the requirements of any other Act or law.

(4) In this section:

*do* includes omit to do.

*veterinary surgeon* includes a person acting under the instructions of a veterinary surgeon.

**[4] Section 37 Possession of certain stock medicines**

Insert “(not being an animal or animals of a food producing species)” after “care” in section 37 (1) (a).

**[5] Section 37 (1) (b)**

Insert “for use otherwise than on an animal or animals of a food producing species” after “profession”.

**[6] Section 38 Use of unregistered stock medicines**

Omit section 38 (2) (a). Insert instead:

(a) the person is a veterinary surgeon who uses the stock medicine in the course of the practice of his or her profession and the stock medicine is a registered human pharmaceutical or has been compounded by the veterinary surgeon, or

**[7] Section 38 (2) (b) (iii)**

Insert at the end of section 38 (2) (b) (ii):

, and

(iii) is a registered human pharmaceutical or has been compounded by the veterinary surgeon.

**[8] Section 39 Use of registered stock medicine contrary to label**

Omit “labelled ‘NOT FOR USE IN FOOD PRODUCING ANIMALS’ ” from section 39 (1).

Insert instead “labelled so as to indicate (in whatever terms) that it is not for use on stock that produces, or is to be used as, food for human consumption.”.

**[9] Section 39 (2) (b)**

Insert “under section 40 (2)” after “surgeon”.

**[10] Section 40 Prescription or supply of stock medicine by veterinary surgeon**

**Section 40 (1)**

Omit “subsection (2)”.

Insert instead “subsections (2)–(4)”.

**[11] Section 40 (2)**

Omit “When”. Insert instead “Each time”.

**[12] Section 40 (2)**

Omit “or who is authorised to supply the stock medicine, written instructions”.

Insert instead “and to the person who is authorised to supply the stock medicine, written instructions, signed and dated by the veterinary surgeon and including the veterinary surgeon’s name and address.”.

**[13] Section 40 (3), (4)**

Insert after section 40 (2):

- (3) A veterinary surgeon must not prescribe, supply or authorise the supply of such a stock medicine unless it is done in the course of the practice of his or her profession and for the purpose of dealing with a particular condition of an animal or animals under his or her care.
- (4) A veterinary surgeon must not prescribe, supply or authorise the supply of an unregistered stock medicine for use on stock of a food producing species.

**[14] Section 40A**

Insert after section 40:

**40A Buyer of stock to be informed of withholding period**

- (1) An owner of stock of a food producing species must, if the stock has been treated with a stock medicine and there is a relevant withholding period for the stock medicine that has not expired, inform any person with whom the owner has made arrangements to sell the stock on behalf of the owner:
  - (a) that the stock has been so treated, and
  - (b) when the relevant withholding period will expire.

Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.
- (2) A person must not sell any stock of a food producing species that has been treated with a stock medicine for which there is a relevant withholding period that has not expired unless the person informs any buyer or potential buyer, orally or in writing, before the sale:
  - (a) that the stock has been so treated, and
  - (b) when the relevant withholding period will expire.

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



- (3) It is a defence to a prosecution for an offence against subsection (1) or (2) that the person did not know, and did not have reasonable grounds for suspecting, at the time of the commission of the offence, that the stock concerned had been treated with a stock medicine and that the relevant withholding period had not expired.
- (4) In this section, *relevant withholding period* means:
- (a) the withholding period specified under section 40 (2) by the veterinary surgeon who prescribed or supplied the stock medicine or authorised the stock medicine to be supplied for the treatment of the stock, or
  - (b) if paragraph (a) does not apply, the withholding period (if any) specified on the label on the package containing the stock medicine.

**[15] Section 52 Retention and disposal of seized property**

Omit section 52 (1). Insert instead:

- (1) In this section, *prescribed period* for any substance, article or container seized under section 50 (1) (e) means the period of 12 months commencing from the time of seizure of the substance, article or container and includes any extension of that period granted under this section.

**[16] Section 52 (5)–(7)**

Insert after section 52 (4):

- (5) A Local Court may extend the prescribed period for any substance, article or container on application by or on behalf of the Minister.
- (6) A Local Court may order the return of any substance, article or container seized under section 50 (1) (e) to the owner or person from whom it was seized on the application of the owner or person.
- (7) For the purposes of this section, a Local Court is to be constituted by a Magistrate sitting alone.

**[17] Schedule 2 Savings and transitional provisions**

Insert “Stock Medicines Amendment Act 1995” at the end of clause 2 (1).

**[18] Schedule 2, Part 4**

Insert after Part 3:

**Part 4 Provisions consequent on enactment of  
Stock Medicines Amendment Act 1995**

**16 Retention and disposal of seized property**

The amendment made to section 52 by Schedule 1 (15) to the *Stock Medicines Amendment Act 1995* does not apply to any substance, article or container seized before the commencement of that amendment.

[Minister's second reading speech made in—  
Legislative Assembly on 31 May 1995  
Legislative Council on 11 October 1995]