



New South Wales

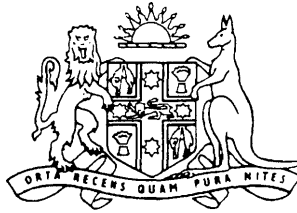
Agriculture Legislation Amendment Act 1998 No 116

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Agriculture Legislation Amendment Act 1998 No 116

Act No 116, 1998

An Act to make miscellaneous amendments to the *Apiaries Act 1985*, the *Exotic Diseases of Animals Act 1991*, the *Stock Diseases Act 1923* and the *Stock Medicines Act 1989*. [Assented to 9 November 1998]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Agriculture Legislation Amendment Act 1998*.

2 Commencement

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

3 Amendment of Apiaries Act 1985 No 16

The *Apiaries Act 1985* is amended as set out in Schedule 1.

4 Amendment of Exotic Diseases of Animals Act 1991 No 73

The *Exotic Diseases of Animals Act 1991* is amended as set out in Schedule 2.

5 Amendment of Stock Diseases Act 1923 No 34

The *Stock Diseases Act 1923* is amended as set out in Schedule 3.

6 Amendment of Stock Medicines Act 1989 No 182

The *Stock Medicines Act 1989* is amended as set out in Schedule 4.

Schedule 1 Amendment of Apiaries Act 1985

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

residue means:

- (a) a substance remaining in the body tissues or secretions of a bee resulting from the use of or contact with any pesticide, drug or other chemical, whether of the same or of a different kind or nature, or
- (b) a natural secretion which is present in the body tissues of a bee in an abnormal concentration.

[2] Section 24A

Insert after section 24:

24A Power to order tests

- (1) An inspector may:
 - (a) cause any bees, beehives, appliances or apiary products to be tested for any disease or residue or take from any bees, beehives, appliances or apiary products a specimen of any kind, or
 - (b) order the owner or person in charge of bees, beehives, appliances or apiary products to cause the bees, beehives, appliances or apiary products to be tested for any disease or residue within a specified time and in a manner approved by the Chief, Division of Animal Industries.
- (2) An order may be given under subsection (1) (b) whether or not the bees, beehives, appliances or apiary products have previously been tested.
- (3) A person who fails to comply with an order under subsection (1) (b) is guilty of an offence.

Maximum penalty: 20 penalty units.

[3] Section 38 General powers of inspectors

Insert after section 38 (1):

- (IA) The inspector may enter premises with such persons, vehicles and equipment as the inspector considers are necessary to enable or assist the inspector to exercise the function concerned.

[4] Section 38A

Insert after section 38:

38A Inspector may request assistance

- (1) An inspector may request the assistance of any police officer if the inspector reasonably believes that the performance of functions conferred on the inspector by or under this Act will be obstructed.
- (2) An inspector may request the assistance of any person he or she believes to be capable of providing assistance in the performance of functions conferred on the inspector by or under this Act.

[5] Section 54

Insert after section 53:

54 Description of land in documents under this Act

Land is sufficiently described in a document given under this Act if the description of the land allows no reasonable doubt as to the land to which the document relates.

Schedule 2 Amendment of Exotic Diseases of Animals Act 1991

(Section 4)

[1] Section 3 Definitions

Insert in alphabetical order:

carcass
infected

[2] Section 6A

Insert after section 6:

6A Declaration of exotic diseases

- (1) The Minister may, by order in writing, declare any animal disease to be an exotic disease for the purposes of this Act.
- (2) An order under this section:
 - (a) comes into force on the date that it is signed, and
 - (b) must be published in the Gazette within 14 days after that date.
- (3) An order which 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.

Note. *Exotic disease* as defined in the Dictionary includes foot and mouth disease and rabies.

[3] Section 15 Declaration of restricted area

Insert "the boundaries of the restricted area and" after "identify" in section 15 (2).

[4] Section 17

Omit the section. Insert instead:

17 Variation of boundaries of restricted areas including parts of roadways

- (1) The boundaries of a restricted area as fixed by the relevant declaration may be 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 the boundaries of the restricted area across the roadway.
- (2) The variation takes effect when the sign is moved to indicate the variation.

[5] Section 21 Declaration of control area

Insert "the boundaries of the control area and" after "identify" in section 21 (2).

[6] Section 22 Control orders

Omit section 22 (1). Insert instead:

- (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*):
 - (a) prohibit, regulate or control any of the following:
 - (i) the holding of markets, fairs, sales, shows, parades, race meetings or other gatherings or competitions involving animals or animal products.
 - (ii) the presence or exposure of specified animals or animal products at any place where animals or animal products are exposed for sale.

- (iii) 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,
 - (iv) 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,
 - (v) the movement of specified animals or animal products into, out of or within the control area, or
- (b) order all or any specified persons within a control area or a specified part of a control area to take such measures as the Minister or inspector thinks fit to contain or eradicate the exotic disease.

[7] Section 22 (3)

Insert after section 22 (2):

- (3) An order made in accordance with subsection (1) (b) must specify:
- (a) the control area or the specified part of a control area to which the order relates, and
 - (b) the persons, or the specified persons, to whom the order applies, and
 - (c) the measures that those persons must take.

[8] Section 32 Destruction of infected animals, premises and other property

Insert at the end of section 32:

- (2) A destruction order may specify any one or more of the following matters:
- (a) the method by which a domestic animal is to be destroyed,
 - (b) the method of disposal of the carcass of the domestic animal,

- (c) the method of destruction of any premises, animal products, fodder, fittings or vehicles and the disposal of any remains of those premises, animal products, fodder, fittings or vehicles.

[9] Section 35 Quarantine of places and vehicles

Omit section 35 (1). Insert instead:

- (1) An inspector 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, if the inspector:
 - (a) reasonably suspects the premises, place or vehicle concerned to be infected with an exotic disease, and
 - (b) believes on reasonable grounds that, in order to prevent the spread of the suspected exotic disease, it is necessary to make the order.

[10] Section 38A

Insert after section 38:

38A Undertaking in certain cases

- (1) An inspector may, instead of making a quarantine order in respect of any premises, place or vehicle, accept an undertaking given by the owner, or person in charge or in apparent control of the premises, place or vehicle (a *quarantine undertaking*), to comply with any requirements specified in the undertaking.
- (2) The undertaking is to be in a form acceptable to the inspector.
- (3) The requirements that may be specified include requirements relating to the quarantining or security of 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.

- (4) A person giving a quarantine undertaking in accordance with this section must comply with each requirement specified in the undertaking.

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

- (5) An inspector may release a person from a quarantine undertaking and on release subsection (4) ceases to have effect.

- (6) A quarantine undertaking ceases to have effect:

- (a) 40 days after the undertaking has been given, or
(b) at the end of such shorter or longer period as the Chief Veterinary Officer determines.

[11] Section 39 Disinfection of places and vehicles

Omit section 39 (1). Insert instead:

- (1) An inspector may by order in writing (a *disinfection order*) direct:

- (a) the owner or person in charge or in apparent control of any premises, place or vehicle to disinfect:
- (i) themselves, or anything on or about them.
and
- (ii) the premises, place or vehicle (along with any fodder or fitting within the premises, place or vehicle and any vehicle within the premises or place), and
- (b) any other person entering any premises, place or vehicle to disinfect themselves, or anything on or about them,

if the inspector reasonably suspects the person, premises, place or vehicle concerned is infected with an exotic disease.

[12] Section 39 (2) (a)

Insert “or other person specified in the disinfection order” after “apparent control”.

[13] Section 41 Seizure for unauthorised movements

Insert “or a requirement specified in a quarantine undertaking given in accordance with section 38A” after “this Act” in section 41 (a).

[14] Section 45 Search and entry and other powers

Omit “the powers of an inspector under this Act”.
Insert instead “any power or function conferred on an inspector by or under this Act”.

[15] Section 45 (2)

Insert at the end of section 45:

- (2) Without limiting subsection (1), an inspector may do anything referred to in that subsection in respect of any premises or place that has been the subject of a quarantine order, a quarantine undertaking or a declaration of an infected place within the preceding 2 years.

[16] Section 46 Requiring assistance

Omit section 46 (1). Insert instead:

- (1) An inspector may by notice in writing direct:
 - (a) an owner or person in charge or in apparent control of any premises, place, area, animal or vehicle that the inspector reasonably suspects to be infected with an exotic disease. or

(b) any other person on or in any such premises, place, area or vehicle,

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.

[17] Section 74 Non-compliance with order or undertaking

Insert after section 74 (1):

(1A) If a person fails for any reason to comply with a requirement specified in an undertaking given in accordance with section 38A, an inspector may cause the requirement given in the undertaking to be carried out.

[18] Section 74 (2)

Insert "or undertaking" after "such order".

[19] Section 74 (2) (a)

Insert "or who gave the undertaking" after "was given".

[20] Section 74 (2) (b)

Insert "or undertaking" after "the order"

[21] Section 77 Posting of signs

Insert "or any quarantine undertaking given" after "order made" in section 77 (1) (c).

[22] Sections 81 and 82

Insert after section 80:

81 Saving of declared exotic diseases

Any disease that, immediately before the commencement of this section, was declared by the Minister by order published in the Gazette to be an exotic disease is taken to have been declared as such in accordance with section 6A.

82 Notes in text

Notes included in this Act are explanatory notes and do not form part of this Act.

[23] Dictionary of terms used in this Act

Insert in alphabetical order:

carcass includes any portion of a carcass, and the hide, skin, hair, wool or viscera, of any animal.

infected includes contaminated and also includes infested.

[24] Dictionary of terms used in this Act, definition of "exotic disease"

Omit "the Minister declares by order published in the Gazette to be an exotic disease for the purposes of this Act".

Insert instead "declared to be an exotic disease by an order made by the Minister under section 6A".

Schedule 3 Amendment of Stock Diseases Act 1923

(Section 5)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

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

[2] Part 4, Division 2, heading

Omit "and protected areas".

Insert instead " , protected areas and protected (control) areas".

[3] Section 11A Protected areas and protected (control) areas

Insert "or a protected (control) area" wherever occurring after "protected area" in section 11A (1), (2) and (4).

[4] Section 11A (1A) and (1B)

Insert after section 11A (1):

(1A) A protected (control) area is an area with a moderate prevalence of a disease.

(1B) A protected area is an area with a lower prevalence of a disease.

[5] Section 11A (2)

Insert "or treatment" after "test".

[6] Sections 12 (except section 12 (a)), 14 (4), (5) and (6), 17 (2), 20F (1) (b) and 23 (1) (b), (j), (l) and (m)

Omit "or protected area" wherever occurring.
Insert instead " , protected area or protected (control) area".

[7] Section 12 Further powers of Minister

Omit " , or protected area" from section 12(a).
Insert instead " , protected area or protected (control) area".

[8] Section 12 (a)

Insert " , or any carcass. fodder. fittings or animal products" after "class of stock".

[9] Section 12 (a)

Insert "or be lawfully moved across"* after "lawfully cross".

[10] Section 12 (b)

Insert " , class of stock. any carcass. fodder. fittings or animal products" after "movement of stock".

[11] Section 12 (c)

Insert "or carcass. fodder. fittings or animal products" after "class of stock".

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

Insert " , protected (control) area" after "protected area" wherever occurring in section 12A (1) and (4).

[13] Section 14 Quarantine

Insert “or the protected (control) area” after “the protected area” in section 14 (6).

[14] Section 15 Quarantine lines

Insert “, any class of stock, or any carcass, fodder, fittings or animal products” after “stock” in section 15 (1).

[15] Section 19G Person must not remove or alter tag

Insert after section 19G (3):

- (4) It is a defence to a prosecution for an offence under this section if the defendant establishes that the defendant:
- (a) removed a tag, or caused a tag to be removed. or
 - (b) altered or defaced a tag, or
 - (c) altered or defaced the particulars of identification on a tag,
- in accordance with the regulations.

[16] Section 20B Sale of diseased stock

Insert at the end of section 20B (1):

Maximum penalty: 200 penalty units.

[17] Section 20B (3) and (3A)

Omit section 20B (3). Insert instead:

- (3) This section does not prevent the sale of stock diseased only with footrot, sheep lice. *Brucella ovis* infection or any other disease declared by the Minister for the purposes of this section (or only with more than one of those diseases), if:
- (a) the sale is directly to an abattoir for slaughter. or
 - (b) 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.

(3A) This section does not prevent the sale of diseased stock to a feedlot that:

- (a) transports all its stock directly to slaughter, and
- (b) is authorised in writing by the Chief, Division of Animal Industries as a feedlot to which infected stock may be sold.

[18] Sections 20C (1) (b) and 20D (1)

Insert “or a protected (control) area” after “protected area” wherever occurring.

[19] Section 20C Movement of stock

Omit “or *Brucella ovis* infection” from section 20C (3) (a).
Insert instead “, *Brucella ovis* infection or any other disease declared by the Minister for the purposes of this section”.

[20] Section 20C (3A)

Insert after section 20C (3):

(3A) This section does not prevent the movement of infected stock to a feedlot that:

- (a) transports all its stock directly to slaughter, and
- (b) is authorised in writing by the Chief, Division of Animal Industries as a feedlot to which infected stock may be moved.

[21] Section 20C (6)

Insert after section 20C (5):

(6) In this section:

infected stock means stock that are infected and includes:

- (a) any infected class of stock, or
- (b) any infected carcass, or
- (c) any fodder, fittings or animal products infected, contaminated or infested with a stock disease.

stock includes any class of stock, or any carcass, fodder, fittings or animal products.

[22] Section 20K

Insert after section 205:

20K Bribery

A person who, without lawful authority, offers, makes or gives to an inspector a payment, gratuity or present in consideration of the inspector's doing or omitting to do any act or thing relating to the exercise of a function conferred or imposed on an inspector by or under this Act is guilty of an offence.

Maximum penalty: 100 penalty units.

[23] Section 23 Regulations

Insert "and make provision for and with respect to schemes of identification of stock (whether on a compulsory or voluntary basis)" after "disease" in section 23 (1) (c).

[24] Section 23 (1) (p)

Omit "or of a protected area".

Insert instead " , a protected area or a protected (control) area".

Schedule 4 Amendment of Stock Medicines Act 1989

(Section 6)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

prescribe in relation to a stock medicine, means the giving, by a veterinary surgeon, of a written instruction to a person for the supply to that person of the stock medicine by:

- (a) a pharmacist, or
- (b) a person licensed or authorised under section 10 (4) (d) of the *Poisons and Therapeutic Goods Act 1966* to supply a restricted substance that is a stock medicine.

tag means a tag attached to stock in accordance with the requirements of the provisions of the *Stock Diseases Act 1923* or any regulations made under that Act relating to the identification of stock.

[2] Section 37 Possession of certain stock medicines

Omit "*Poisons Act 1966*" from section 37 (2).

Insert instead "*Poisons and Therapeutic Goods Act 1966*".

[3] Section 46 Supply and use bans and recall orders

Omit "treated" from section 46 (2A) (a).

Insert instead "to indicate whether or not stock has been treated".

[4] Section 46 (2A) (b)

Insert "or not given" after "given".

[5] Section 50 Powers of inspectors

Omit section 50 (1) (b1). Insert instead:

- (b1) require the production of, inspect, and take copies of or extracts from:

- (i) any record the keeping of which is required by this Act, the regulations, a permit, order or authority in force under section 32, 34 or 46, and
- (ii) any document otherwise held or kept by a person which relates to the advertising of stock medicines.

[6] Section 50 (1) (e)

Omit "or the regulations".

Insert instead “, the regulations, or a permit, order or authority in force under section 32, 34 or 46”.

[7] Section 50(1)(e1)

Insert after section 50 (1) (e):

- (e1) seize, or seize and remove, any tag that an inspector believes on reasonable grounds is being used in contravention of an order by the Director-General under this Act,

[Minister's second reading speech made in—
Legislative Assembly on 14 October 1998
Legislative Council on 29 October 1998]