



New South Wales

Stock Diseases Amendment (Artificial Breeding) Act 2004 No 35

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New South Wales

Stock Diseases Amendment (Artificial Breeding) Act 2004 No 35

Act No 35, 2004

An Act to amend the *Stock Diseases Act 1923* with respect to disease in artificial breeding material; to repeal the *Stock (Artificial Breeding) Act 1985*; and for other purposes. [Assented to 15 June 2004]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Stock Diseases Amendment (Artificial Breeding) Act 2004*.

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.

4 Amendment of other Acts

The Acts specified in Schedule 2 are amended as set out in that Schedule.

5 Repeals

The *Stock (Artificial Breeding) Act 1985* and the *Stock (Artificial Breeding) Regulation 1995* are repealed.

Schedule 1 Amendment of Stock Diseases Act 1923

(Section 3)

[1] Section 3 Definitions

Omit the definition of *Disease* in section 3 (1). Insert instead:

Disease means:

- (a) in stock—any disease, parasite or pest declared under section 4 (a) to be a disease in stock for the purposes of provisions of this Act, and
- (b) in artificial breeding material—any disease, condition or characteristic declared under section 4 (b) to be a disease in artificial breeding material for the purposes of provisions of this Act.

[2] Section 3 (1)

Insert “, and also includes artificial breeding equipment” after “kept” in the definition of *Fittings*.

[3] Section 3 (1)

Insert after paragraph (a) of the definition of *Infected*:

- (a1) in relation to artificial breeding material—that stock bred from the artificial breeding material may, as a result of being bred from the material, be affected by disease in the material, or

[4] Section 3 (1)

Insert in alphabetical order:

Artificial breeding equipment means any plant, machinery, equipment, apparatus, utensil, additive, extender, diluent, material or other thing used or intended to be used for or in connection with an artificial breeding procedure.

Artificial breeding material means semen, ova and embryos of any stock.

Artificial breeding procedure means each of the procedures of collecting, processing, handling, storing and distributing artificial breeding material and includes artificial insemination and ovum transfer.

Ova means:

- (a) germ cells of female stock, or
- (b) cells of female stock that can develop into new members of the same species after maturation and fertilisation,

and includes fertilised cells, embryos and foetuses up to the end of the first third of pregnancy, but does not include cells or embryos of an avian species of stock.

Ovum transfer means any operation by which an ovum is collected from female stock and implanted in other female stock either by way of an intermediate host animal or otherwise.

Semen means the fluid produced by the reproductive organs of male stock and includes:

- (a) any part of that fluid, and
- (b) spermatozoa in any fluid or frozen medium.

[5] Section 3 (4)

Insert after section 3 (3):

- (4) A reference in this Act to fittings contaminated with disease includes, in the case of a disease in artificial breeding material, a reference to fittings contaminated with infected artificial breeding material.

[6] Section 4

Omit the section. Insert instead:

4 Diseases to which Act applies

The Governor may by proclamation:

- (a) declare a specified disease, parasite or pest that affects or attacks stock to be a disease in stock for the purposes of the provisions of this Act (or such of those provisions as may be specified in the proclamation), or
- (b) declare a specified disease or undesirable condition or characteristic that affects stock to be a disease in artificial breeding material for the purposes of the provisions of this Act (or such of those provisions as may be specified in the proclamation).

[7] Section 7 Powers of inspectors

Omit “stock or carcass or fodder or fittings” from section 7 (1) (a).

Insert instead “stock, artificial breeding material, carcass, fodder or fittings”.

[8] Section 7 (1) (b)

Omit “stock or carcass”.

Insert instead “stock, artificial breeding material or carcass”.

[9] Section 7 (1) (b)

Omit “stock, carcass, fodder or fittings”.

Insert instead “stock, artificial breeding material, carcass, fodder or fittings”.

[10] Section 7 (1) (bi)

Insert “or artificial breeding material” after “stock” wherever occurring.

[11] Section 7 (1) (bii)

Insert “or artificial breeding material” after “stock” where firstly and secondly occurring.

[12] Section 7 (1) (bii)

Omit “stock have”.

Insert instead “stock or artificial breeding material has”.

[13] Section 7A Questions and inquiries by inspectors

Insert “, artificial breeding material” after “stock” where firstly occurring in section 7A (1).

[14] Section 7A (1)

Omit “stock, carcass, fodder or fittings”.

Insert instead “stock, artificial breeding material, carcass, fodder or fittings”.

[15] Section 7A (1)

Omit “that stock, carcass or fodder or those fittings”.

Insert instead “the stock, artificial breeding material, carcass, fodder or fittings”.

[16] Section 7A (2)

Omit “the stock, carcass”.

Insert instead “the stock, artificial breeding material, carcass”.

[17] Section 8 Further powers of inspectors

Insert after section 8 (1):

- (1AA) When any artificial breeding material on land or premises is found by an inspector to be diseased or suspected by the inspector of being diseased, the inspector may by notice in writing served on a person who is the owner or occupier of the land or premises require the person to keep the artificial breeding material on the land or premises for a specified period of up to 40 days.

[18] Section 8 (3A)

Insert after section 8 (3):

- (3A) An inspector may, with the approval of the Chief, Division of Animal Industries, extend the period for which artificial breeding material is required to be kept on land or premises under subsection (1AA) for a further period (not exceeding 40 days) specified in a further notice in writing given to the owner or occupier of the land or premises.

[19] Section 9 Occupier etc to give notice

Insert after section 9 (2):

- (2A) Subject to subsection (4), every veterinary surgeon who, as a result of an examination or consultation concerning any stock or artificial breeding material, is of the opinion or suspects that artificial breeding material is diseased, must give written notice in accordance with subsection (3AA) within a period of

48 hours after he or she examined or was consulted with respect to the stock or artificial breeding material.

Maximum penalty: 100 penalty units.

- (2B) A written notice referred to in subsection (2A) is to be given to the Senior Field Veterinary Officer for the rural lands protection district in which the stock or artificial breeding material is then located.

[20] Section 9 (3AA)

Omit the subsection. Insert instead:

- (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) in the case of a disease in stock, the number and description of the stock and of the stock that are diseased or believed to be or suspected of being diseased,
 - (c) in the case of a disease in artificial breeding material, the nature and quantity of the artificial breeding material and of the artificial breeding material that is diseased or believed to be or suspected of being diseased,
 - (d) the location of the stock or artificial breeding material,
 - (e) the name and address of the owner of the stock or artificial breeding material,
 - (f) the name of the occupier of the land or premises where the stock or artificial breeding material is located,
 - (g) if the stock are travelling, the name and address of the person in charge of the stock.

[21] Section 9 (4)

Omit “subsection (1) or (2)”.

Insert instead “subsection (1), (2) or (2A)”.

[22] Section 9 (4)

Omit “inspector”. Insert instead “Senior Field Veterinary Officer”.

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

Insert “artificial breeding material,” before “carcass” in section 11A (1).

[24] Section 11A (2)

Insert “or artificial breeding material” after “stock”.

[25] Section 11B Protection against importation of diseased stock etc

Insert “artificial breeding material,” after “stock,” wherever occurring.

[26] Section 12 Further powers of Minister

Insert “artificial breeding material,” before “carcass” wherever occurring.

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

Insert “artificial breeding material,” before “carcass” wherever occurring in section 12A (3) and (5) (b).

[28] Section 14 Quarantine

Insert after section 14 (4):

- (4A) The regulations or orders of an inspector under subsection (4) can extend to the course of action to be taken in respect of artificial breeding material on the land concerned by the owner or occupier of the land or the owner or person in charge of the artificial breeding material.

[29] Section 15 Quarantine lines

Insert “artificial breeding material,” before “carcass” in section 15 (1).

[30] Section 17 Power to order destruction

Insert “or infected artificial breeding material” after “infected stock” where firstly and lastly occurring in section 17 (1).

[31] Section 17 (2)

Omit the subsection. Insert instead:

- (2) An order may be given to a person to destroy or dispose of stock or artificial breeding material or any carcass, or produce, of stock, or fodder or other thing used in connection with stock or artificial breeding material, if the stock, artificial

breeding material, carcass, produce, fodder or other thing is in a quarantine area, protected area or protected (control) area. For the purposes of this subsection, it does not matter whether the stock or artificial breeding material is infected or not.

[32] Section 17 (3) (b)

Insert “artificial breeding material,” before “carcass” wherever occurring.

[33] Part 4, Division 4

Insert after Division 3:

Division 4 Special provision for artificial breeding material

17A Orders to prevent spread of disease in artificial breeding material

- (1) The Minister may, for the purpose of preventing the spread of disease resulting from the use of artificial breeding material, by order:
 - (a) prohibit the sale or supply, or the use for or in connection with an artificial breeding procedure, of artificial breeding material taken from specified stock, or
 - (b) prohibit the sale or supply, or the use for or in connection with an artificial breeding procedure, of artificial breeding equipment used for or in connection with an artificial breeding procedure involving specified stock or involving artificial breeding material taken from specified stock, or
 - (c) require the owner or person in charge of artificial breeding material taken from specified stock to take specified action in respect of that artificial breeding material, or
 - (d) require the owner or person in charge of artificial breeding equipment used for or in connection with an artificial breeding procedure involving specified stock or involving artificial breeding material taken from specified stock to take specified action in respect of that artificial breeding equipment, or

- (e) order the owner or person in charge of specified stock to cause the stock to be tested for disease in a specified manner prior to the collection of artificial breeding material from the stock.
- (2) The action that a person can be required to take in respect of artificial breeding material or artificial breeding equipment by an order under this section is any of the following:
 - (a) the testing of the material or equipment in a specified manner,
 - (b) the storing of the material or equipment in a specified manner,
 - (c) the disposal or destruction of the material or equipment in a specified manner,
 - (d) such other action as may be prescribed by the regulations.
- (3) An order under this section can specify stock by reference to individuals or by reference to type, breed, blood line or species of the stock or characteristics of the stock.
- (4) An order under subsection (1):
 - (a) may be general or limited in its application to a specified part of the State, and
 - (b) may prohibit an activity absolutely or subject to specified exceptions or to compliance with specified conditions.
- (5) An order under this section is (unless revoked sooner) revoked 6 months after the date on which the order was published in the Gazette.
- (6) Sections 39, 40 and 41 of the *Interpretation Act 1987* apply to an order under this section in the same way as they apply to a statutory rule within the meaning of that Act.

[34] Section 19 Power to seize stock etc

Insert “or artificial breeding material” after “stock” wherever occurring in section 19 (1).

[35] Section 19 (2)

Insert “or artificial breeding material” after “Any stock”.

[36] Section 19 (2) and (3)

Insert “artificial breeding material,” before “carcass” wherever occurring.

[37] Section 20 Illegal introduction of stock or artificial breeding material

Insert “artificial breeding material or” before “stock” wherever occurring.

[38] Section 20C Movement of stock and artificial breeding material

Insert “artificial breeding material,” before “carcass” in the definition of *stock* in section 20C (6).

[39] Section 20FA Treatment or seizure of stock etc

Insert “artificial breeding material,” before “carcass” in section 20FA (3).

[40] Section 20H Compliance with proclamations, orders, undertakings etc

Insert “or artificial breeding material” after “stock” in section 20H (1) (c1).

[41] Section 20J Providing false or misleading information

Omit “disposition of stock” from section 20J (2).

Insert instead “disposition of stock or artificial breeding material”.

[42] Section 20J (2) (a)

Insert “artificial breeding material,” before “carcasses”.

[43] Section 20J (2) (b)

Insert “or artificial breeding material” after “stock”.

[44] Section 21A Evidence of scientific examination

Insert “artificial breeding material,” after “examined any stock,” in section 21A (2).

[45] Section 21A (2)

Omit “derived from any stock or carcass”.

Insert instead “derived from any stock, artificial breeding material or carcass”.

[46] Section 22A Protection from liability for providing information or advice

Insert “artificial breeding material,” after “stock,”.

[47] Section 23 Regulations

Insert “or artificial breeding material” after “stock” in section 23 (1) (a).

[48] Section 23 (1) (b)

Insert “or artificial breeding material” after “stock” wherever occurring.

[49] Section 23 (1) (e)

Insert “or artificial breeding material” after “stock” wherever occurring.

[50] Section 23 (1) (f)

Insert “artificial breeding material,” after “stock,”.

[51] Section 23 (1) (k)

Insert “or artificial breeding material” after “stock”.

[52] Section 23 (1) (l)

Insert “or artificial breeding material” after “stock” wherever occurring.

[53] Section 23 (1) (o)

Insert “, artificial breeding material” after “any stock”.

[54] Section 23 (1) (r)

Insert “or artificial breeding material” after “stock” wherever occurring.

[55] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Stock Diseases Amendment (Artificial Breeding) Act 2004

[56] Schedule 2

Insert at the end of the Schedule:

**Part 5 Provisions consequent on enactment of
Stock Diseases Amendment (Artificial
Breeding) Act 2004**

13 Saving of proclamations

- (1) A proclamation in force under section 4 immediately before the substitution of that section by the *Stock Diseases Amendment (Artificial Breeding) Act 2004* is taken to have been made under that section as substituted.
- (2) Such a proclamation is taken to constitute a declaration under section 4 (a) of a disease in stock, so as to distinguish it from a proclamation under section 4 (b) of a disease in artificial breeding material.

14 Licences

- (1) On the repeal of the *Stock (Artificial Breeding) Act 1985*, any licence in force under that Act is cancelled.
- (2) Any fee paid in connection with the issue of such a licence is not refundable, either in whole or in part.
- (3) A person who was the holder of a licence cancelled under this clause must, if directed to do so in writing by the Director-General, return the licence to the Director-General within the period specified in the direction.

Maximum penalty: 20 penalty units.

Schedule 2 Amendment of other Acts

(Section 4)

2.1 Law Enforcement (Powers and Responsibilities) Act 2002 No 103

Schedule 4 Amendment of other Acts and instrument

Omit Schedule 4.88.

2.2 Search Warrants Act 1985 No 37

Section 10 Definitions

Omit “section 33 of the *Stock (Artificial Breeding) Act 1985*,” from the definition of *search warrant*.

[Second reading speech made in—
Legislative Assembly on 2 April 2004
Legislative Council on 1 June 2004]

BY AUTHORITY