

[Act 1995 No 47]



New South Wales

Stock Medicines Amendment Bill 1995

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Stock Medicines Act 1989*:

- (a) as a consequence of the enactment of the *Agricultural and Veterinary Chemicals (New South Wales) Act 1994*, which applies the *Agvet Code* as a law of this State, and
 - (b) to place certain limitations on the exemptions specified in the Act to the offence of having possession of an unregistered stock medicine, of using a registered stock medicine in a manner that is contrary to the instructions on the package and of selling stock medicines in certain circumstances, and
 - (c) to change the offence of using a stock medicine labelled “Not for use in food producing animals” on food producing stock to the offence of using, on food producing stock, a registered stock medicine labelled so as to indicate in whatever terms, that it is not to be so used, and
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- (d) to impose certain requirements as to the giving of written instructions by veterinary surgeons who prescribe, supply or authorise the supply of certain stock medicines, and
- (e) to require an owner of stock of a food producing species that has been treated with a stock medicine to inform any person who is going to sell the stock for the owner when any relevant withholding period will expire, and
- (f) to make it an offence for a person to sell stock of a food producing species which has been treated with a stock medicine unless the person first informs the buyer when any relevant withholding period will expire, and
- (g) to change the periods for which property seized under the Act can be held, and
- (h) to make other minor and consequential amendments.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the *Stock Medicines Act 1989*.

Schedule 1 Amendments

Amendments relating to the Agvet legislation

Schedule 1 (1) inserts definitions of *supply* and *sell* that are consistent with the Agvet Code. Schedule 1 (2) contains a consequential amendment.

Schedule 1 (3) enables a veterinary surgeon or a person acting under the instructions of a veterinary surgeon to do an act or omit to do an act that would otherwise be an offence under Part 4 of the *Agvet Code* (dealing with the control of agricultural and veterinary chemicals) if that act or omission would have constituted an offence under the *Stock Medicines Act 1989* from which the veterinary surgeon or person is exempted by that Act. The new provision does not exempt a person from the requirements of any other law.

Offences relating to use, prescription or supply of stock medicines

Section 37 prohibits a person having possession of an unregistered stock medicine, except in certain circumstances. **Schedule 1 (4)** and **(5)** limit those exceptions to unregistered stock medicines that are not for use on stock of a food producing species.

Section 38 (2) prohibits a person using an unregistered stock medicine on stock that is not of a food producing species except if it was prescribed or supplied by a veterinary surgeon in certain circumstances. **Schedule 1 (6)** and **(7)** provide that the exception only relates to stock medicines that are registered human pharmaceuticals or have been compounded by the veterinary surgeon who prescribes or supplies them. **Schedule 1 (1)** includes a definition of *registered human pharmaceutical*.

Section 39 (1) prohibits a person using a registered stock medicine labelled “Not for use in food producing animals” on stock of a food producing species, except in certain circumstances. **Schedule 1 (8)** changes that offence to using, on stock of a food producing species, a registered stock medicine 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.

Section 39 (2) prohibits a person using a registered stock medicine in a manner that is contrary to the instructions on the package, except in certain circumstances. One of those circumstances is if the stock medicine is used in accordance with written instructions given by a veterinary surgeon. **Schedule 1 (9)** requires those written instructions to be given under section 40 (2) which lists the matters that must be included in the instructions.

Section 40 prohibits a veterinary surgeon prescribing, supplying or authorising the supply of an unregistered stock medicine, or a registered stock medicine for use in a manner contrary to the instructions on the package, unless the veterinary surgeon gives certain written instructions to the person for whom it is prescribed or the supplier. **Schedule 1 (11)** requires those written instructions to be given each time a veterinary surgeon prescribes, supplies or authorises the supply of a stock medicine in those circumstances. **Schedule 1 (12)** requires a veterinary surgeon to supply those written instructions both to the person for whom the stock medicine is prescribed and to the supplier. **Schedule 1 (12)** also requires additional information to be included in those instructions. **Schedule 1 (13)** imposes an additional requirement that the prescription, supply or authorisation to

supply given by a veterinary surgeon in those circumstances must be done in the course of the veterinary surgeon's profession and for the purpose of dealing with a particular condition of an animal or animals under the veterinary surgeon's care. **Schedule 1 (13)** also prevents a veterinary surgeon from prescribing, supplying or authorising for supply in any circumstances an unregistered stock medicine if it is for use on an animal of a food producing species. **Schedule 1 (10)** contains a consequential amendment.

Withholding periods

Schedule 1 (14) requires an owner of food producing stock to inform a person who is going to sell the stock as to whether the stock has been treated with a stock medicine and, if so, when any relevant withholding period specified by the veterinary surgeon who prescribed the stock medicine or on the label for the stock medicine will expire.

Schedule 1 (14) also makes it an offence for a person to sell stock of a food producing species that has been treated with a stock medicine unless the person has informed the buyer of any relevant withholding period specified by the veterinary surgeon who prescribed the stock medicine or on the label for the stock medicine.

There is a defence to the offences created by **Schedule 1 (14)** of not knowing or having reasonable grounds for suspecting that the stock had been treated with a stock medicine and that the relevant withholding period had not expired.

Schedule 1 (1) defines *withholding period* as the minimum period which should elapse between the last administration of a stock medicine and the slaughter for human consumption of an animal to which it has been administered or 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.

Retention and disposal of seized property

Schedule 1 (15) changes from 6 months to 12 months the time for which something seized under the Act may be retained. A Local Court has power to grant an extension of that time on application made by or on behalf of the Minister and may order the return of the thing seized on application by the person from whom it was seized or the owner.

Savings and transitional provisions

Schedule 1 (17) enables regulations to be made of a savings and transitional nature consequent on the enactment of the proposed Act. **Schedule 1 (18)** provides that the amendments relating to retention and forfeiture of seized property do not apply to property seized before the commencement of the amendments.