



New South Wales

## Stock Medicines Amendment Bill 2004

### 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* (the **Principal Act**):

- (a) to specify the objects of the Act, and
- (b) to impose further safeguards in relation to the use of stock medicines on major food producing species, and
- (c) to define **major food producing species** as cattle, sheep, pigs or chickens or any other species prescribed by the regulations, and
- (d) to enable a person to use a stock medicine intended for a major food producing species on stock of some other food producing species so long as certain requirements are complied with, and
- (e) to ensure that relevant instructions are given to the owner or person in charge of stock in relation to the treatment of the stock with a stock medicine, and
- (f) to remove certain offences relating to the use of unregistered stock medicines on animals that are not of a food producing species, and
- (g) to ensure that records are kept by veterinary surgeons of certain treatments or prescriptions relating to stock medicines, and

- (h) to remove offences relating to the advertising of stock medicines, and
- (i) to extend the grounds on which orders may be made under the Act prohibiting or regulating the use of a stock medicine or recalling a stock medicine, and
- (j) to repeal provisions of the Act the operation of which is currently suspended under the *Agricultural and Veterinary Chemicals (New South Wales) Regulation 2000* because those provisions are covered by Commonwealth law, and
- (k) to enable penalty notices to be issued for offences against the Act or the regulations, and
- (l) to make other miscellaneous amendments.

The Bill also makes consequential amendments to several Acts.

## Outline of provisions

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

**Clause 2** provides for the commencement of the proposed Act.

**Clause 3** is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the consequential amendments to Acts set out in Schedule 2.

### Regulation of use of stock medicines

**Schedule 1 [3]** inserts definitions of *food producing species*, *major food producing species* and *registered stock medicine* into the Principal Act.

Part 5 of the Principal Act contains provisions relating to the control of stock medicines.

**Schedule 1 [11]** inserts proposed section 36A into the Principal Act which defines certain terms used in Part 5. The term *use instructions* is defined to mean the instructions that are required or permitted by the Agvet Code of the Commonwealth to be on the package of stock medicine relating to the use of the stock medicine on stock or the way in which stock or products of stock are to be treated after the stock medicine has been used on the stock. They include such instructions as the dosage rate, method of administration and the withholding period. A provision is also included that makes it clear that a reference in Part 5 to using a stock medicine on stock includes a reference to giving it stock food that has been treated with a stock medicine. **Schedule 1 [4], [15], [16] and [17]** contain consequential amendments.

**Schedule 1 [12]** omits the offence contained in section 37 (2) of the Principal Act of a person having possession of a stock medicine that contains a restricted substance within the meaning of the *Poisons and Therapeutic Goods Act 1966* if the person has been supplied with that stock medicine in contravention of that Act. **Schedule 1 [20]** contains a consequential amendment.

**Schedule 1 [13]** omits sections 38–40 of the Principal Act (and inserts new sections 38, 39, 39A–39F and 40) so as to make the following changes:

- (a) to remove the offence currently contained in section 38 (2) of the Principal Act of using an unregistered stock medicine on stock that is not a member of a food producing species and to replace it with an offence (in proposed section 39C (3)) that prevents a veterinary surgeon from prescribing or supplying an unregistered stock medicine for use on such stock unless the stock medicine complies with certain requirements,
- (b) to enable a veterinary surgeon to use or prescribe the use of an unregistered stock medicine on a particular animal under the veterinary surgeon's care (proposed sections 39A (1) and (3) (a) and 39C (1)),
- (c) to prevent a veterinary surgeon from using or prescribing the use of a registered stock medicine in a manner that is contrary to certain use instructions unless it is for the purpose of treating a particular animal under the veterinary surgeon's care or is in accordance with certain permits or orders under the Principal Act (proposed sections 39A (2) and (3) and 39C (2)),
- (d) to give a person who is not a veterinary surgeon a defence from the offences of using an unregistered stock medicine on stock of a food producing species or a registered stock medicine in a manner that is contrary to the use instructions if the person is acting on the instructions of a veterinary surgeon or in accordance with certain permits or orders under the Principal Act (proposed sections 38 (2), 39 (2) and 39B (2)),
- (e) to give a person who is not a veterinary surgeon a defence from the offence of using a registered stock medicine in a manner that is contrary to the use instructions if the stock medicine is intended for use on stock of a major food producing species but the person is using it on stock of some other food producing species in accordance with certain use instructions (proposed sections 39 (2) and 39B (3)),
- (f) to ensure that if a veterinary surgeon uses or prescribes certain stock medicines or uses registered stock medicines in a manner contrary to the use instructions, or prescribes such a use of a stock medicine, the veterinary surgeon is to give written instructions containing specified information to the owner or person in charge of the stock and (where relevant) to the person supplying the stock medicine (proposed section 39D),
- (g) to require that veterinary surgeons keep records of matters referred to in paragraph (f) (proposed section 39E),
- (h) to require certain information to be provided to the owner or person in charge of stock of a food producing species by a person (other than a veterinary surgeon) who has treated the stock with a stock medicine (proposed section 39F),
- (i) to prevent a veterinary surgeon using an unregistered stock medicine on stock of a food producing species, or prescribing an unregistered stock medicine for use on such stock, or from using a registered stock medicine on stock of a

major food producing species, or prescribing such a use of a registered stock medicine, in a manner contrary to the use instructions if to do so would result in the stock or products from the stock containing chemical residues in contravention of the Food Standards Code of the Commonwealth (proposed section 40).

**Schedule 1 [14]** amends section 40A of the Principal Act to require the owner of stock of a food producing species to ensure that a person with whom the owner has made arrangements to sell the stock has been informed of any relevant withholding period applying to the stock if the stock has been treated with a stock medicine. Similarly, a person in charge of stock of a food producing species, in cases where the person in charge is not the owner of the stock, is to give the same information to a person with whom the person in charge has made arrangements to sell the stock on behalf of the owner. Currently, this obligation is on the owner of the stock only.

**Schedule 1 [19]** inserts proposed section 41A which makes it an offence for a person who is aware that a notice has been issued under section 55 of the Agvet Code of the Commonwealth in relation to a stock medicine to fail to deal with any such stock medicine in the person's possession in accordance with the notice.

### **Orders prohibiting or regulating the supply or use of stock medicines or recalling stock medicines**

Section 46 of the Principal Act currently enables the Director-General of the Department of Primary Industries to make orders prohibiting or regulating the use of a stock medicine or requiring its recall. **Schedule 1 [24]** expands the grounds on which such orders may be made to include, for example, grounds relating to stock medicines causing adverse effects on the promotion of trade or impeding the control or eradication of diseases and pests in animals. **Schedule 1 [25]** makes it clear that such orders may provide for exemptions. **Schedule 1 [26]** replaces the existing provisions relating to the publication of such orders to enable the Director-General to determine the most effective method of publication rather than requiring publication in a newspaper. The current requirement that such orders be published in the Gazette is retained.

**Schedule 1 [27]** replaces the existing offence of wilfully contravening such an order with an offence of contravening the order without reasonable excuse.

### **Miscellaneous amendments**

**Schedule 1 [1]** specifies the objects of the Principal Act.

**Schedule 1 [2], [5]–[10], [22], [23], [31], [35], [36], [38], [39] and [42]** repeal provisions that are currently suspended under the *Agricultural and Veterinary Chemicals (New South Wales) Regulation 2000* or are otherwise no longer required. Included in the repeal are provisions establishing a Stock Medicines Board that had functions only in relation to the suspended provisions and has therefore ceased to operate.

**Schedule 1 [18]** updates an out of date reference.

**Schedule 1 [21]** omits section 43 of the Principal Act which contains certain offences relating to the advertising of stock medicines. **Schedule 1 [37]** repeals a regulation-making power relating to advertising.

**Schedule 1 [28] and [29]** specifically enable authorisations of inspectors and analysts under the Principal Act to be made subject to conditions.

**Schedule 1 [30]** expands the powers of inspectors under the Principal Act to require the production of certain documents and enables inspectors to take those documents away for such time as is reasonably necessary to enable them to be copied.

**Schedule 1 [32]** increases the limit on the monetary penalty that may be imposed by a Local Court for an offence under the Principal Act or the regulations.

**Schedule 1 [33]** removes the restriction that proceedings for an offence against the Principal Act or the regulations may be taken only by a person authorised by the Minister.

**Schedule 1 [34]** inserts proposed section 60A into the Principal Act which enables penalty notices to be issued for offences against the Principal Act or the regulations that are offences prescribed by the regulations for the purposes of the proposed section.

**Schedule 1 [40], [41] and [43]** contain savings and transitional provisions.

#### **Consequential amendment of Acts**

**Schedule 2** makes consequential amendments to the *Fines Act 1996* and the *Veterinary Practice Act 2003*. The Schedule also amends the Principal Act to reflect changes in terminology to be made by the *Veterinary Practice Act 2003* when it commences.

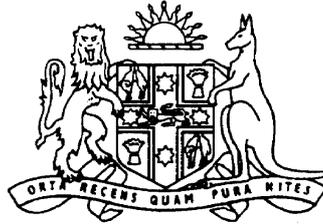
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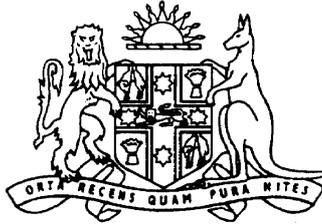
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New South Wales

## Stock Medicines Amendment Bill 2004

No. , 2004

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### A Bill for

An Act to amend the *Stock Medicines Act 1989* to make further provision for the regulation of stock medicines in relation to food producing species, to remove obsolete provisions and to make other amendments in connection with national competition policy reform; and for other purposes.

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

**1 Name of Act**

This Act is the *Stock Medicines Amendment Act 2004*.

**2 Commencement**

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsections (2) and (3).
- (2) Schedule 2.2 commences on the day on which the *Veterinary Surgeons Act 1986* is repealed.
- (3) Schedule 2.3 commences on the date of assent to this Act.

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

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

**4 Consequential amendment of Acts**

Each Act specified in Schedule 2 is amended as set out in that Schedule.

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## Schedule 1 Amendment of Stock Medicines Act 1989

(Section 3)

### [1] Section 2A

Insert after section 2:

#### 2A Primary objects of Act

The primary objects of this Act are as follows:

- (a) to protect human health by intervening early in the agricultural production process, in particular, to ensure that illegal or unsafe levels of chemical residues do not transfer to the human food chain by their excessive presence in food producing animals,
- (b) to facilitate international trade by supporting initiatives to ensure that livestock and meat products destined for export markets comply with the chemical residue requirements of international trading partners,
- (c) to protect the welfare of animals treated with stock medicines.

### [2] Section 3 Definitions

Omit the definitions of *Board*, *clearance authority*, *food producing species*, *registration periods* and *stock medicine order* from section 3 (1).

### [3] Section 3 (1)

Insert in alphabetical order:

*food producing species* means stock that produces food for human consumption or is used as food for human beings, and includes:

- (a) any buffalo, cattle, deer, fish (other than ornamental fish), goat, kangaroo, pig, poultry, rabbit, sheep, bee, crustacean or mollusc, or
- (b) any other type or species of stock prescribed by the regulations for the purposes of this definition.

**Note.** The definition of *food producing species* is modelled on the definition in the Agvet Code.

*major food producing species* means:

- (a) cattle, sheep, pigs or chickens, or
- (b) any other type or species of stock prescribed by the regulations for the purposes of this definition.

*registered stock medicine* means a stock medicine that has registration, or listed registration, under the Agvet Code.

**[4] Section 3 (1), definition of “prescribe”**

Omit the definition. Insert instead:

*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 (or the supply of stock food treated with the stock medicine):

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

**[5] Section 3 (3)**

Omit the subsection. Insert instead:

- (3) Notes included in this Act do not form part of this Act.

**[6] Section 4 Clearance authority for registration of stock medicines**

Omit the section.

**[7] Part 2 Registration of stock medicines**

Omit the Part.

**[8] Section 34 Stock medicines orders**

Omit the section.

**[9] Section 35 Effect of stock medicines order**

Omit the section.

**[10] Part 4 Stock Medicines Board**

Omit the Part.

**[11] Section 36A**

Insert before section 37:

**36A Interpretation of Part**

- (1) In this Part, *use instructions*, in relation to a stock medicine, means the instructions that:

(a) are on the label attached to the package in which the stock medicine is contained and are required or permitted by or under the Agvet Code to be on the label when sold, and

(b) relate to the use of the stock medicine on stock or the way in which stock, or any product from stock, is to be dealt with after the administration of the stock medicine.

**Note.** Products from stock would include, for example, milk, wool, honey and eggs.

(2) Without limiting subsection (1), **use instructions** include the following matter appearing on the label attached to the package of a stock medicine:

(a) any instructions, directions, recommendations or indications as to the dosage rate for, and method and timing of administration of, the stock medicine,

(b) the type of stock on which the stock medicine is intended to be used or should not be used,

(c) any withholding period,

(d) any precautions and contraindications,

(e) any instructions, directions or recommendations appearing under the heading “Restraint” or “Restraints”.

(3) In this Part, **relevant withholding period**, in relation to a stock medicine, means:

(a) the withholding period (if any) specified under section 39D by the veterinary surgeon who prescribed or supplied the stock medicine for the treatment of the stock, or

(b) if paragraph (a) does not apply, the withholding period specified in the use instructions.

(4) In this Part:

(a) a reference to a label attached to a package includes a reference to writing appearing on the package, and

(b) a reference (however expressed) to the use of a stock medicine on stock, or the treatment of stock with a stock medicine, includes a reference to the administration to stock of stock food treated with a stock medicine, and

(c) a reference (however expressed) to using a stock medicine in a manner contrary to the use instructions includes a reference to dealing with stock on which the stock medicine has been used in a manner contrary to the use

instructions and includes, in particular, not observing the withholding period or varying the withholding period in relation to the stock medicine.

**[12] Section 37 Possession of unregistered stock medicines**

Omit section 37 (2).

**[13] Sections 38, 39, 39A–39F and 40**

Omit sections 38–40. Insert instead:

**38 Use of unregistered stock medicines**

(1) A person must not use an unregistered stock medicine on stock that is a member of a food producing species.

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

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that the defendant was authorised by section 39A or 39B to use the unregistered stock medicine concerned.

**39 Use of registered stock medicine contrary to use instructions**

(1) A person must not use a registered stock medicine in a manner that is contrary to the use instructions.

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

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that the defendant was authorised by section 39A or 39B to use the registered stock medicine in the manner concerned.

(3) It is a defence to a prosecution for an offence against subsection (1) that:

(a) there were instructions for the use of the stock medicine on the label attached to the package of the stock medicine at the time of the commission of the offence, and

(b) the person, at that time, did not know, and did not have reasonable grounds for suspecting, that those instructions were not (either wholly or partially) the use instructions.

(4) It is not a defence to a prosecution for an offence against subsection (1) that the defendant failed to read the use instructions for the stock medicine concerned.

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**39A Authorisations for veterinary surgeons**

- (1) A veterinary surgeon is authorised to use an unregistered stock medicine if the use occurs:
- (a) in the course of the practice of the veterinary surgeon's profession and for the purpose of dealing with an animal or animals under his or her care, and
  - (b) in the exempt circumstances set out in subsection (3).
- (2) A veterinary surgeon is authorised to use a registered stock medicine in a manner contrary to the use instructions if the use occurs:
- (a) in the course of the practice of the veterinary surgeon's profession and for the purpose of dealing with an animal or animals under his or her care, and
  - (b) in the case of any of the following uses of the stock medicine, in the exempt circumstances set out in subsection (3):
    - (i) the administration of the stock medicine by injection if any use instruction indicates that the stock medicine is for oral or topical application,
    - (ii) the use of the stock medicine in a manner contrary to any use instruction that is included under a heading "Restraint" or "Restraints",
    - (iii) the use of the stock medicine on stock of a major food producing species if the use instructions do not indicate, in some manner, that the stock medicine is intended for use on stock of some type of major food producing species,
    - (iv) the use of the stock medicine on stock of a food producing species if the use instructions indicate, in some manner, that the stock medicine is intended for use on stock that is not of a food producing species and if the use instructions also indicate, in some manner, that the stock medicine is not for use on stock of a food producing species.
- (3) For the purposes of subsections (1) and (2) (b), the following are exempt circumstances in relation to the use of a stock medicine:
- (a) the use of a stock medicine in the treatment of an individual animal of a food producing species (whether or not from a group of stock) where no other animal from the same property is being treated, at or about that time, with that stock medicine,

- (b) the use of a stock medicine in accordance with a permit, 1
- (c) the use of a stock medicine in compliance with an order in 2  
force under section 46. 3
- (4) An authorisation referred to in this section operates for the 4  
purpose of section 38 or 39 only and does not affect any 5  
requirement to comply with any other provision of this Act or any 6  
other Act or law. 7

**39B Authorisations for persons other than veterinary surgeons** 8

- (1) This section applies to persons who are not veterinary surgeons. 9
- (2) A person to whom this section applies is authorised to use an 10  
unregistered stock medicine, or to use a registered stock medicine 11  
in a manner contrary to the use instructions, if the use: 12
  - (a) is in accordance with written instructions from a veterinary 13  
surgeon, or 14
  - (b) is in accordance with a permit, or 15
  - (c) is in compliance with an order in force under section 46. 16
- (3) Without limiting subsection (2), a person to whom this section 17  
applies is authorised to use a registered stock medicine in a 18  
manner contrary to the use instructions if: 19
  - (a) the stock medicine is used on stock of a food producing 20  
species (other than a major food producing species), and 21
  - (b) the use instructions indicate that the stock medicine may 22  
be used on stock of some type of major food producing 23  
species, and 24
  - (c) the person administers the stock medicine at, or at less 25  
than, the dosage rate and using the method and timing of 26  
administration indicated in the use instructions, and 27
  - (d) the person complies with any contraindications and 28  
withholding period indicated in the use instructions, and 29
  - (e) the person complies with any use instructions that are 30  
included under a heading “Restraint” or “Restrains”. 31
- (4) An authorisation referred to in this section operates for the 32  
purpose of section 38 or 39 only and does not affect any 33  
requirement to comply with any other provision of this Act or any 34  
other Act or law. 35

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**39C Prescription or supply of stock medicine by veterinary surgeon**

- (1) A veterinary surgeon must not prescribe or supply a stock medicine for use by a person on stock unless the veterinary surgeon is authorised by this Act to use the stock medicine on that stock.
- (2) A veterinary surgeon must not prescribe or supply a stock medicine for use in a manner contrary to the use instructions unless the veterinary surgeon is authorised by this Act to use the stock medicine on that stock in that manner.
- (3) A veterinary surgeon must not prescribe or supply an unregistered stock medicine for use on stock (other than stock of a food producing species) unless the stock medicine:
- (a) is a registered human pharmaceutical, or
  - (b) has been compounded by the veterinary surgeon or by a pharmacist on the prescription of the veterinary surgeon.
- Maximum penalty: 100 penalty units.

**39D Instructions to be provided by veterinary surgeons**

- (1) A veterinary surgeon must comply with the requirements of this section if the veterinary surgeon:
- (a) prescribes or supplies an unregistered stock medicine for use on stock of a food producing species, or uses an unregistered stock medicine on such stock, or
  - (b) prescribes or supplies a registered stock medicine for use on stock of a food producing species in a manner contrary to the use instructions, or uses a registered stock medicine on such stock in such a manner, or
  - (c) prescribes or supplies a restricted substance within the meaning of the *Poisons and Therapeutic Goods Act 1966* for use on stock of a major food producing species, or uses a restricted substance on such stock.
- Maximum penalty: 200 penalty units.
- (2) Each time the veterinary surgeon prescribes, supplies or uses the stock medicine, the veterinary surgeon must:
- (a) give to the person for or to whom the stock medicine is prescribed or supplied, or on whose behalf it is used, and to the person who is authorised to supply the stock medicine (where relevant), written instructions for its use, and

- (b) explain to the person for or to whom the stock medicine is prescribed or supplied, or on whose behalf it is used, any of the written instructions that the veterinary surgeon intends will override any use instruction for the stock medicine. 1  
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- (3) The written instructions for use are to be signed and dated by the veterinary surgeon and are to include the veterinary surgeon's name and business address and the following matters: 6  
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  - (a) details to identify the particular stock on which the stock medicine is to be used or has been used, 9  
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  - (b) the name of the owner of the stock or the person in charge of the stock, 11  
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  - (c) particulars to identify the stock medicine, 13
  - (d) the name of the active constituent of the stock medicine, 14
  - (e) the type of stock for which the stock medicine is intended, 15
  - (f) the withholding period (including that there is no withholding period if the veterinary surgeon considers none is required), 16  
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18
  - (g) the dosage rate, 19
  - (h) the frequency of treatment, 20
  - (i) the length of treatment, 21
  - (j) the manner of administration, 22
  - (k) such other matters as may be prescribed by the regulations for the purposes of this subsection. 23  
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- (4) Despite subsection (3), the written instructions for use of a registered stock medicine in a manner contrary to the use instructions need only include such of the matters set out in that subsection as are different to the use instructions. 25  
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**39E Records to be kept by veterinary surgeons** 29

A veterinary surgeon must keep a record, in accordance with the regulations, of the following: 30  
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- (a) the prescription or supply of any unregistered stock medicine for use on stock of a food producing species and the use by the veterinary surgeon of any unregistered stock medicine on any such stock, 32  
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- (b) the prescription or supply of any registered stock medicine for use on stock of a major food producing species in a manner contrary to the use instructions and the use by the 36  
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veterinary surgeon of any registered stock medicine on any such stock in such a manner,

- (c) the prescription or supply of any restricted substance within the meaning of the *Poisons and Therapeutic Goods Act 1966* for use on stock of a major food producing species and the use by the veterinary surgeon of a restricted substance on any such stock.

Maximum penalty: 100 penalty units.

**39F Instructions to be provided by others who use stock medicines**

A person (other than a veterinary surgeon) who uses a stock medicine on stock of a food producing species and who is not an employee of the owner of the stock or the person in charge of the stock must ensure that the owner or person in charge of the stock is given written instructions that:

- (a) indicate how the stock on which the stock medicine was used can be identified, and
- (b) include the use instructions for the stock medicine or, if they have been varied by the written instructions of a veterinary surgeon, those written instructions.

Maximum penalty: 100 penalty units or, for an offence by a corporation, 200 penalty units.

**40 Variation of use instructions by veterinary surgeon**

- (1) This section applies to the following actions of a veterinary surgeon:

- (a) the use by the veterinary surgeon of an unregistered stock medicine on stock of a food producing species,
- (b) the giving of instructions for the use of an unregistered stock medicine on stock of a food producing species,
- (c) the use by the veterinary surgeon of a registered stock medicine on stock of a major food producing species in a manner contrary to the use instructions,
- (d) the giving of instructions for the use of a registered stock medicine on stock of a major food producing species in a manner contrary to the use instructions.

- (2) A veterinary surgeon must not take any action to which this section applies if it is reasonably likely that the action will result in stock or products from stock:

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- (a) where there is no relevant withholding period for the stock medicine concerned, containing any chemical residue at a level that contravenes the Food Standards Code, or
  - (b) where there is a relevant withholding period for the stock medicine concerned, containing, at or after the expiry of that period, any chemical residue at a level that contravenes the Food Standards Code.

Maximum penalty: 200 penalty units.

- (3) In this section, *Food Standards Code* has the same meaning as in the *Food Act 2003*.

**[14] Section 40A Buyer of stock to be informed of withholding period**

Omit section 40A (1). Insert instead:

- (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, ensure that any person with whom the owner has made arrangements to sell the stock is informed:
  - (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.

- (1A) The person in charge of the stock (in a case where the person in charge is not the owner) 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 person in charge 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.

**[15] Section 40A (4)**

Omit the subsection.

**[16] Section 40B Breach of specified withholding period**

Omit section 40B (1). Insert instead:

- (1) If stock of a food producing species has been treated with a stock medicine, a person must not cause or permit:

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	(a) the slaughter of the stock for human consumption, or	1
	(b) the harvest of the wool, fibre, milk or eggs of the stock for human consumption, or	2
	(c) the release of the honey of the stock for human consumption,	3
	before the relevant withholding period has expired.	4
	Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.	5
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<b>[17]</b>	<b>Section 40B (2) (a)</b>	9
	Omit section 40B (2) (a) and (b). Insert instead:	10
	(a) the person was not aware that the stock had been treated with a stock medicine, or	11
		12
<b>[18]</b>	<b>Section 41 Offences relating to sale of stock medicines</b>	13
	Omit “section 44” from section 41 (1) (d).	14
	Insert instead “the Agvet Code”.	15
<b>[19]</b>	<b>Section 41A</b>	16
	Insert after section 41:	17
	<b>41A Stock medicines to be dealt with in accordance with notices under Agvet Code</b>	18
		19
	If a person who has a stock medicine in his or her possession or custody is aware of a notice under section 55 of the Agvet Code that requires a person to deal with the stock medicine in a particular way, the person must deal with the stock medicine in accordance with the instructions contained in the notice.	20
		21
		22
		23
		24
	Maximum penalty: 100 penalty units or, for an offence by a corporation, 200 penalty units.	25
		26
<b>[20]</b>	<b>Section 42 Defence to certain prosecutions</b>	27
	Omit section 42 (2).	28
<b>[21]</b>	<b>Section 43 Offences relating to advertising</b>	29
	Omit the section.	30
<b>[22]</b>	<b>Section 44 Certain particulars to be on packages of stock medicines</b>	31
	Omit the section.	32

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- [23] Section 45 Certain matter prohibited in relation to stock medicines** 1  
Omit the section. 2
- [24] Section 46 Supply and use bans and recall orders** 3  
Omit section 46 (1). Insert instead: 4
- (1) The Director-General may make an order under this section if the 5  
Director-General believes on reasonable grounds that the 6  
administration or application of a stock medicine or a stock 7  
medicine of a particular class: 8
- (a) is likely to endanger the health of the public, consumers of 9  
food or produce derived from stock or persons 10  
administering or applying the stock medicine, or 11
- (b) is likely to cause undue hazard to the environment, or 12
- (c) is likely to make stock ill, or 13
- (d) is likely to have an adverse effect on trade, or the 14  
promotion of trade, in stock or a product derived from 15  
stock, or 16
- (e) is likely to impede the control or eradication of diseases or 17  
pests affecting stock, or 18
- (f) is likely to impede the control or reduction of populations 19  
of pests, including bacterial organisms, that are resistant to 20  
stock medicines, or 21
- (g) is inappropriate in a particular area because of local 22  
climatic or soil conditions. 23
- [25] Section 46 (2)** 24  
Insert at the end of section 46 (2) (c): 25  
, or 26
- (d) provide for exemptions from the operation of the order. 27
- [26] Section 46 (3)** 28  
Omit section 46 (3) and (4). Insert instead: 29
- (3) An order under this section: 30
- (a) is to be published in the Gazette and in some other manner 31  
that, in the opinion of the Director-General, is most likely 32  
to bring it to the attention of the persons who will be 33  
affected by it, and 34

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	(b) if it applies to a named person (whether or not it also applies in any respect generally or to a specified class of persons) is to be served on the named person, and	1 2 3
	(c) may relate to a registered stock medicine or an unregistered stock medicine.	4 5
<b>[27]</b>	<b>Section 46 (6)</b>	6
	Omit the subsection. Insert instead:	7
	(6) A person must not, without reasonable excuse, contravene an order under this section.	8 9
	Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.	10 11
<b>[28]</b>	<b>Section 48 Authorisation of inspectors</b>	12
	Insert at the end of the section:	13
	(2) An authorisation under this section may be given unconditionally or subject to conditions specified in the relevant order.	14 15
<b>[29]</b>	<b>Section 49 Authorisation of analysts</b>	16
	Insert after section 49 (1):	17
	(1A) An authorisation under this section may be given unconditionally or subject to conditions specified in the relevant order.	18 19
<b>[30]</b>	<b>Section 50 Powers of inspectors</b>	20
	Omit section 50 (1) (b1). Insert instead:	21
	(b1) require the production of any record or document required to be kept under this Act, the regulations or a permit, order or authority in force under this Act,	22 23 24
	(b2) examine any such records or documents, make copies of them or any part of them and, for that purpose, take away and retain them or any part of them for such time as may be reasonably necessary,	25 26 27 28
<b>[31]</b>	<b>Section 50 (1) (e)</b>	29
	Omit “section 32, 34 or 46”. Insert instead “this Act”.	30
<b>[32]</b>	<b>Section 60 Proceedings for offences</b>	31
	Omit “50 penalty units” from section 60 (2). Insert instead “100 penalty units”.	32

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<b>[33] Section 60 (5) and (6)</b>	1
Omit the subsections.	2
<b>[34] Section 60A</b>	3
Insert after section 60:	4
<b>60A Penalty notices</b>	5
(1) An authorised officer may serve a penalty notice on a person if it appears to the officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.	6 7 8 9
(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.	10 11 12 13 14
(3) A penalty notice may be served personally or by post.	15
(4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.	16 17 18
(5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.	19 20 21 22
(6) The regulations may:	23
(a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and	24 25 26
(b) prescribe the amount of penalty payable for the offence if dealt with under this section, and	27 28
(c) prescribe different amounts of penalties for different offences or classes of offences.	29 30
(7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.	31 32 33
(8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.	34 35 36

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(9)	In this section, <i>authorised officer</i> means a person authorised in writing by the Director-General as an authorised officer for the purposes of this section and includes a police officer.	1 2 3
<b>[35]</b>	<b>Section 61 Certificate of registration or non-registration</b> Omit the section.	4 5
<b>[36]</b>	<b>Section 63 Refund of fees</b> Omit the section.	6 7
<b>[37]</b>	<b>Section 65 Regulations</b> Omit section 65 (2) (e).	8 9
<b>[38]</b>	<b>Section 67 Repeal of regulations and form</b> Omit the section.	10 11
<b>[39]</b>	<b>Schedule 1 Provisions relating to Stock Medicines Board</b> Omit the Schedule.	12 13
<b>[40]</b>	<b>Schedule 2, heading</b> Omit “and transitional”. Insert instead “, transitional and other”.	14 15 16
<b>[41]</b>	<b>Schedule 2, clause 2 (1)</b> Insert at the end of the subclause: <i>Stock Medicines Amendment Act 2004</i>	17 18 19
<b>[42]</b>	<b>Schedule 2, Parts 2, 3 and 4</b> Omit the Parts.	20 21
<b>[43]</b>	<b>Schedule 2, Part 5</b> Insert in appropriate order:	22 23
	<b>Part 5 Provisions consequent on enactment of Stock Medicines Amendment Act 2004</b>	24 25
	<b>17 Stock Medicines Board</b>	26
(1)	The Stock Medicines Board established under Part 4 of this Act before its repeal by the <i>Stock Medicines Amendment Act 2004</i> is dissolved.	27 28 29

- (2) The persons holding office as members of the Stock Medicines Board immediately before the commencement of this clause:
- (a) cease to hold office as such on that commencement, and
  - (b) are not entitled to any compensation for ceasing to hold office because of the operation of this clause.

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**18 Repeal of orders**

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On the repeal of section 34 by the *Stock Medicines Amendment Act 2004*, any order made under that section and in force is revoked.

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**19 Proceedings for offences**

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The amendment of section 60 by the *Stock Medicines Amendment Act 2004* extends to offences committed before the commencement of the amendment but does not affect any proceedings commenced before that commencement and not finally determined at that commencement.

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## Schedule 2 Consequential amendment of Acts

(Section 4)

### 2.1 Fines Act 1996 No 99

#### Schedule 1 Statutory provisions under which penalty notices issued

Insert in alphabetical order of names of Acts:

*Stock Medicines Act 1989*, section 60A

### 2.2 Stock Medicines Act 1989 No 182

#### [1] Section 3 Definitions

Omit “veterinary surgeon” from the definition of *prescribe* in section 3 (1).

Insert instead “veterinary practitioner”.

#### [2] Section 3 (1)

Omit the definition of *veterinary surgeon*. Insert instead:

*veterinary practitioner* has the same meaning as in the *Veterinary Practice Act 2003*.

#### [3] Sections 6A (1) and 39B (1)

Omit “veterinary surgeons” wherever occurring.

Insert instead “veterinary practitioners”.

#### [4] Sections 6A (2) and (4), 36A (3) (a), 37 (1), 39A (1) and (2), 39B (2), 39C, 39D (1)–(3), 39E, 39F, 40 and 41 (2)

Omit “veterinary surgeon” wherever occurring.

Insert instead “veterinary practitioner”.

#### [5] Section 6A (4)

Omit “*veterinary surgeon*”. Insert instead “*veterinary practitioner*”.

#### [6] Sections 39A (1) (a) and (2) (a) and 39D (3)

Omit “veterinary surgeon’s” wherever occurring.

Insert instead “veterinary practitioner’s”.

Stock Medicines Amendment Bill 2004

Schedule 2 Consequential amendment of Acts

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**2.3 Veterinary Practice Act 2003 No 87**

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**Schedule 3 Amendment of other Acts and Regulations**

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Omit Schedule 3.26 and 3.27.

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