

[Act 1998 No 116]



New South Wales

Agriculture Legislation Amendment Bill 1998

Explanatory note

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

Overview of Bill

The object of this Bill is to make miscellaneous amendments to the following Acts:

- (a) *Apiaries Act 1985*.
- (b) *Exotic Diseases of Animals Act 1991*,
- (c) *Stock Diseases Act 1923*.
- (d) *Stork Medicines Act 1989*.

The amendments are explained in detail below in relation to each Act amended.

* Amended in committee—see table at end of volume.

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 on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Apiaries Act 1985* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Exotic Diseases of Animals Act 1991* set out in Schedule 2.

Clause 5 is a formal provision giving effect to the amendments to the *Stock Diseases Act 1923* set out in Schedule 3.

Clause 6 is a formal provision giving effect to the amendments to the *Stock Medicines Act 1989* set out in Schedule 4.

Schedule 1 Amendment of Apiaries Act 1985

Powers of inspectors

Schedule 1 [2] inserts proposed section 24A into the Principal Act. The proposed section will allow inspectors to test bees, beehives, appliances or apiary products for diseases and residues and to take specimens for testing, or to order the owners or persons in charge of any bees, beehives, appliances or apiary products to have such tests done. **Schedule 1 [1]** is a consequential amendment.

Schedule 1 [3] amends section 38 of the Principal Act to extend the power of entry of inspectors to include the power to bring assistants, vehicles and equipment onto premises.

Schedule 1 [4] inserts proposed section 38A into the Principal Act. The proposed section will allow an inspector to request the assistance of police officers (if the inspector reasonably believes the performance of the inspector's functions under the Principal Act will be obstructed) or the assistance of other persons (if the inspector believes they are capable of providing assistance in the performance of functions conferred on the inspector by or under the Principal Act).

Description of land

Schedule 1 [5] inserts proposed section 54 into the Principal Act. The proposed section provides that land is sufficiently described in a document given under the Principal Act if the description allows no reasonable doubt as to the land to which the document relates.

Schedule 2 Amendment of Exotic Diseases of Animals Act 1991

Definitions and notes in the Act

Schedule 2 [1] and **[23]** provide definitions of *carcass* and *infected* for the purposes of the Principal Act.

Schedule 2 [2] and **[24]** insert proposed section 6A into the Principal Act and amend the definition of *exotic disease* in the Dictionary to the Principal Act, respectively. At present *exotic disease* is defined to mean foot and mouth disease, rabies or any other animal disease declared by the Minister by order published in the Gazette to be an exotic disease for the purposes of the Principal Act. Proposed section 6A will enable the Minister, by order in writing, to declare any animal disease to be an exotic disease for the purposes of the Act. Such an order takes effect immediately but must be published in the Gazette within 14 days of being made. **Schedule 2 [22]** inserts two proposed sections into the Principal Act. Proposed section 81 is a savings and transitional provision which will save the operation of declarations of exotic diseases made by the Minister before the commencement of proposed section 6A. Proposed section 82 provides that notes in the text of the Principal Act (such as the new note after proposed section 6A) are explanatory notes only and do not form part of the Act.

Boundaries of restricted areas

Schedule 2 [4] removes the power of the Minister to vary the boundaries of a restricted area by notice in writing. This item also clarifies that the power to vary the boundaries of a restricted area that includes part of a roadway that is indicated by a sign may be exercised by moving the sign in an appropriate manner. **Schedule 2 [3]** and **[5]** are consequential amendments.

Control orders

Schedule 2 [6] amends section 22 of the Principal Act to confer on an inspector an additional power (which may be exercised only if directed by the Minister) to order specified persons within a control area to take such measures as the inspector thinks fit in order to contain or eradicate an exotic disease. **Schedule 2 [7]** is a consequential amendment.

Destruction orders

Schedule 2 [8] provides that a destruction order under section 32 of the Principal Act may specify the method by which an animal or property is to be destroyed and the method of disposal of the carcass of a destroyed animal or destroyed property.

Quarantine orders

Schedule 2 [9] amends section 35 (1) of the Principal Act to allow an inspector to order the quarantine of premises, places or vehicles that he or she reasonably suspects (rather than knows) are infected with an exotic disease.

Quarantine undertakings

Schedule 2 [10] inserts proposed section 38A into the Principal Act. The proposed section will enable an inspector, instead of making a quarantine order, to accept a quarantine Undertaking from the owner or person in charge, or apparent control of, any premises, place or vehicle and makes it an offence not to comply with such an undertaking. **Schedule 2 [13]** and **[21]** make consequential amendments. **Schedule 2 [17]–[20]** expand section 74 of the Principal Act to cover cases of non-compliance with requirements of undertakings under proposed section 38A. If such a requirement is not complied with, an inspector may cause the requirement to be carried out and the costs and expenses of doing so may be recovered from the person who gave the undertaking or who was responsible for the person's non-compliance.

Powers of inspectors

Schedule 2 [11] amends section 39 (1) of the Principal Act so that if an inspector reasonably suspects a person, premises, place or vehicle to be infected with an exotic disease, the inspector may order the owner or person in charge or in apparent control of the premises, place or vehicle, or any other person entering the premises, place or vehicle, to disinfect themselves or things on or about them. **Schedule 2 [12]** makes a consequential amendment.

Schedule 2 [14] and [15] amend section 45 of the Principal Act. These amendments make it clear that an inspector may do any of the actions specified in that section for the purpose of exercising any power or function conferred on an inspector by or under the Principal Act, and that an inspector may use the powers specified in section 45 in relation to premises and places that have been the subject of a quarantine order, a quarantine undertaking or a declaration of an infected place within the preceding 2 years.

Schedule 2 [16] amends section 46 of the Principal Act to expand the power of an inspector to require assistance. The proposed section 46 (1) will enable an inspector to require any person on or in any premises, place, area or vehicle that the inspector reasonably suspects to be infected with an exotic disease to give reasonable assistance to the inspector. The proposed section will now also apply to the owner or person in charge, or in apparent control, of any animal on or in such premises, place, area or vehicle.

Schedule 3 Amendment of Stock Diseases Act 1923

Declaration of protected (control) areas

Schedule 3 [3] amends section 11A of the Principal Act. Currently section 11A allows the Minister to declare certain land to be a protected area and restrict or prohibit the bringing into the area of any stock or any class of stock, or any carcass, fodder, fittings or animal products and may require any specified class or classes of stock within a protected area to be subjected to tests. Section 11A, as amended, will allow the Minister to also declare certain land to be a protected (control) area. A protected (control) area will be an area where there is a moderate prevalence of a stock disease. **Schedule 3 [5]** makes a minor amendment to section 11A (2) to allow the Minister to require any specified class or classes of stock within a protected area or protected (control) area to be subject to such treatment as is specified in the same notification that declares the protected area or protected (control) area or in a like notification. **Schedule 3 [2], [4], [6], [7], [12], [13], [19] and [25]** make consequential amendments.

Regulation of movement of carcasses, fodder, fittings and animal products

Schedule 3 [8]–[11] and [14] amend sections 12 and 15 of the Principal Act so that not only the movement of stock and classes of stock but also the movement of carcasses, fodder, fittings and animal products may be regulated under those sections.

Defences to prosecutions relating to removal, alteration defacement of tags

Schedule 3 [15] inserts proposed section 19G (4) into the Principal Act. This provision provides a defence to a prosecution under section 19G, concerning the removal, alteration or defacement of tags, if the defendant establishes that the defendant removed a tag, or caused a tag to be removed, altered or defaced, or the particulars of identification on a tag to be altered or defaced, in accordance with the regulations.

Regulation of sale and movement of infected stock

Schedule 3 [16]–[18] and **[20]–[22]** amend sections 20B and 20C of the Principal Act which contain certain offences relating to the sale of diseased stock and the movement of stock. Currently sections 20B (3) and 20C (3) provide for exceptions to the offences in those sections for stock infected with footrot, sheep lice or *Brucella ovis*. The amendments expand these exceptions to other diseases declared by the Minister for the purposes of the sections. These amendments also insert proposed section 20B (3A) and 20C (3A) which provide that sections 20B and 20C do not prevent the sale or movement of infected stock to a feedlot that transports all its stock directly to slaughter and is authorised in writing by the Chief, Division of Animal Industries as a feedlot to which such stock may be sold or moved. **Schedule 3 [16]** replaces the use of the term "diseased stock" in section 20B with the wider term "infected stock" (which includes not only diseased stock but also stock that has been on land on which there is, or within the last 12 months has been, diseased stock).

Bribery

Schedule 3 [23] inserts proposed section 20K into the Principal Act which makes it an offence to bribe an inspector.

Schemes of stock identification

Schedule 3 [24] amends section 23 of the Principal Act (the general regulation-making power) to allow regulations to be made that would prescribe and regulate schemes of identification of stock (whether compulsory or voluntary).

Schedule 4 Amendment of Stock Medicines Act 1989

Definitions

Schedule 4 [1] provides definitions of *prescribe* and *tag* for the purposes of the Principal Act.

Orders relating to identification or marking of stock not treated with a stock medicine

Schedule 4 [3] and **[4]** amend section 46 of the Principal Act to make it clear that the Director-General, in addition to making orders relating to the identification or marking of stock treated with a stock medicine, may also make orders relating to the identification or marking of stock that has not been treated with a stock medicine.

Powers of inspectors

Schedule 4 [5], **[6]** and **[7]** amend section 50 of the Principal Act to extend the powers of inspectors. **Schedule 4 [5]** will allow an inspector to require production of, and allow inspection, copying and the taking of extracts from, not only records required to be kept by or under the Principal Act, but also any document otherwise held or kept by a person that relates to the advertising of a stock medicine. **Schedule 4 [6]** extends the current power of seizure of substances, articles and containers to cases where the inspector suspects on reasonable grounds that there has been a contravention of a permit, order or authority in force under the Principal Act. **Schedule 4 [7]** gives inspectors the power to seize and remove any tag the inspector believes on reasonable grounds is being used in contravention of an order by the Director-General under the Principal Act.

Miscellaneous

Schedule 4 [2] makes an amendment by way of statute law revision.