

[Act 1996 No 105]



New South Wales

Stock Foods Amendment Bill 1996

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 Foods Act 1940* as follows:

- (a) to repeal provisions that require the registration of stock foods,
- (b) to repeal provisions that require the labelling of packages of stock food that is pet food,
- (c) to repeal provisions that imply certain warranties in respect of the sale or delivery of chaff and in respect of invoices, agreements, circulars and advertisements for stock food,
- (d) to replace a provision that requires the giving of an invoice when stock food is sold with a provision that requires an information statement to be provided when stock food is supplied in bulk,
- (e) to broaden an existing provision that enables the regulations to fix the maximum amount of foreign ingredients that can be contained in a stock food to enable the Minister to issue temporary orders to fix new or different maximum foreign ingredient concentrations,

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

- (f) to allow the regulations to regulate or prohibit the incorporation of veterinary chemical products in stock foods to produce medicated stock foods,
- (g) to allow the Director-General of the Department of Agriculture to issue permits to allow the supply of stock foods in circumstances that would ordinarily constitute a contravention of provisions for package labelling, maximum foreign ingredient concentrations, medicated stock food controls or withdrawal from sale directions,
- (h) to broaden existing and proposed new controls to cover not only sales of stock food as at present but also the broader class of transactions encompassed by supply (as used in the Agvet Code and Agvet Regulations),
- (i) to enable the regulations to make provision by applying, adopting or incorporating publications as in force for the time being,
- (j) to increase the powers of inspectors to enable them to require the production of and inspect and take copies of records required by or under the Act and to enable them to require a person to state the person's name and address, and to make other minor amendments to the powers of inspectors,
- (k) to revise terminology in the Act to make it consistent with the terminology used in the Agvet Code and Agvet Regulations (which contain uniform provisions for the regulation of agricultural and veterinary chemicals throughout Australia),
- (l) to revise penalties for the offences with which the amendments are concerned and related offences so that the maximum penalty will be 50 penalty units when the offence is committed by an individual and 100 penalty units when the offence is committed by a body corporate,
- (m) to make minor miscellaneous amendments,
- (n) to make consequential amendments and savings and transitional provisions.

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 Foods Act 1940*.

Schedule 1 Amendments

Schedule 1 [1] replaces the definition section of the Act to remove obsolete definitions and bring other definitions into line with terminology used in the Agvet Code and Agvet Regulations.

Schedule 1 [2] makes the following amendments:

- (a) Section 4 will be repealed. That section currently creates a presumption and an offence with respect to sales and deliveries of chaff (in effect requiring the chaff to be hay chaff unless the contrary is specified).
- (b) Sections 5–5C will be repealed. Those sections currently require manufactured stock foods and by-products to be registered.
- (c) Section 6 will be replaced. The section currently requires packages of manufactured stock foods and by-products to be labelled in a certain way. The new section will require the labelling of packages of stock food for food producing species and horses (so that packages of pet food will not be required to be labelled) and packages of any stock food supplement (including pet stock food supplement). Labels will have to be in accordance with the regulations.
- (d) A new section 6A will be inserted requiring suppliers of bulk stock food to provide the customer with a written statement about the stock food that complies with the regulations.

Schedule 1 [3] will replace section 7 (which currently allows the regulations to prescribe the maximum proportion of foreign ingredients that may be present in a stock food). The section will be broadened to allow the Minister to make temporary orders of up to 60 days duration to further restrict or impose new restrictions on the presence of foreign ingredients in stock food.

Schedule 1 [4] makes the following amendments:

- (a) Sections 8–11 will be repealed. Those sections impose requirements on invoices, agreements, circulars and advertisements with respect to stock foods and provide that statements made in them constitute a warranty to the customer. Section 11 creates a number of offences that relate to various provisions in the Act. To the extent that the offences will still be relevant they will be transferred to the various provisions that create the offences.

- (b) A new section 8 will be inserted to allow the regulations to regulate or prohibit the incorporation of veterinary chemical products in stock foods to produce medicated stock food. It will be an offence to supply a stock food in contravention of the regulations.
- (c) A new section 9 will be inserted to allow the Director-General of the Department of Agriculture to issue permits to allow the sale of stock food or stock food supplement in circumstances that would otherwise constitute a contravention of provisions of the Act that regulate packaging, foreign ingredient concentrations or veterinary chemical product content or that require the withdrawal of stock food from sale.

Schedule 1 [5] and [6] are examples of amendments that change “sale” and “sell” throughout the Act to “supply” to cover a broader class of transactions, which is consistent with the Agvet Code and Agvet Regulations. Other provisions of the Act are amended to the same effect in the course of the other amendments being made to those provisions.

Schedule 1 [7] lowers the maximum penalty for the offence of contravening an order of the Minister to withdraw stock food from sale. The current maximum penalty is 200 penalty units for an individual or 400 penalty units for a corporation. The new penalty will be 50 penalty units for an individual or 100 penalty units for a corporation. This level of penalty will be made consistent for related offences in the Act.

Schedule 1 [8] provides that an inspector can have assistance when exercising the powers of an inspector.

Schedule 1 [9] changes “sale” to “supply” in the provisions dealing with powers of inspectors.

Schedule 1 [10] allows an inspector to require a person to state the person’s name and address and to require the production of and take copies of and extracts from records required to be kept by or under the Act.

Schedule 1 [11] makes it clear that the powers of an inspector to seize and remove articles can be exercised separately (that is, an inspector need not remove an article that the inspector has seized).

Schedule 1 [12] increases from 6 months to 12 months the period for which an article or substance seized by an inspector can be retained.

Schedule 1 [13] corrects a typographical error.

Schedule 1 [14] changes “sale” to “supply” in the provisions dealing with powers of inspectors to demand information.

Schedule 1 [15] removes the requirement that a certificate of an analyst under the Act be in a form approved by the Director-General.

Schedule 1 [16] broadens the power of a court to order forfeiture of stock food on convicting a person for certain offences against the Act so that the power will apply to conviction for any offence against the Act or the regulations.

Schedule 1 [17] broadens the existing offence provision concerned with the obstruction of inspectors so that it will cover the additional powers being conferred on inspectors by the Bill, The provision will require an inspector to warn a person that it is an offence not to comply with a requirement by the inspector to state the person's name and address.

Schedule 1 [18] is consequential on the repeal of provisions requiring the registration of stock foods.

Schedule 1 [19] and **[20]** repeal certain regulation making powers that are obsolete or will be redundant.

Schedule 1 [21] provides a power for the regulations to adopt or incorporate publications as in force for the time being (that is, as amended from time to time).

Schedule 1 [22] is consequential on the repeal of provisions requiring the registration of stock foods.

Schedule 1 [23] and **[24]** insert savings and transitional provisions and a savings and transitional regulation making power.