

Stock (Chemical Residues) Act 1975 No 26

[1975-26]



New South Wales

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **See also**
[Statute Law \(Miscellaneous Provisions\) Bill 2005](#)

Authorisation

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Stock (Chemical Residues) Act 1975 No 26



New South Wales

An Act to prevent the slaughter for human consumption of stock which contain certain concentrations of residues of chemicals or which are otherwise chemically affected; to prevent stock from becoming chemically affected; and for purposes connected therewith.

1 Name of Act

This Act may be cited as the *Stock (Chemical Residues) Act 1975*.

2 Commencement

- (1) This section and section 1 shall commence on the date of assent to this Act.
- (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3 Definitions

In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

carcass includes any portion of a carcass and the hide, skin, hair, wool or viscera of any stock.

chemically affected stock means stock that, by virtue of an order in force under section 4, are chemically affected.

Department means the Department of Primary Industries.

detention notice means a notice in force under section 7 or 8.

Director-General means the Director-General of the Department.

holding means any land or collection of lands which are contiguous to each other or separated only by a road, river, creek or watercourse and which constitute and are worked as one property.

inspector means an inspector appointed under the *Stock Diseases Act 1923*.

occupier, in relation to land, includes any person having the charge, control or management of the land.

record includes any book, account, document, paper or other source of written information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means.

regulations means regulations made under this Act.

residue means:

- (a) a substance remaining in the body tissues or secretions of stock resulting from the use of or contact with any pesticide, drug or other chemical, whether of the same or of a different kind or nature, or
- (b) a natural secretion which is present in the body tissues of stock in an abnormal concentration.

stock means:

- (a) cattle, sheep, goats and pigs, and
- (b) other animals or birds of a kind used for the food of people that the Minister, by order published in the Gazette, declares to be stock for the purposes of this Act.

Editorial note—

For orders under this definition see Gazettes No 140 of 4.9.1987, p 5072 and No 88 of 11.8.1989, p 5389.

stock medicine has the same meaning as it has in the [Stock Medicines Act 1989](#).

4 Order declaring stock to be chemically affected

- (1) The Minister may, by order published in the Gazette, declare that stock that contain, in body tissues or secretions of a specified kind, more than a specified concentration of a specified residue are chemically affected. The Minister is not to make such an order unless of the opinion that stock to which the order relates are, or are likely to become, degraded on account of the residue mentioned in the order.
- (2) An order under subsection (1):
 - (a) may specify different residue concentrations in respect of different kinds of stock, and
 - (b) instead of specifying residue concentrations, may refer to or adopt, with or without modification, residue concentrations prescribed or specified in a standard, rule or code made and published by any Commonwealth or State authority or body, as in force at a particular time or as in force from time to time.

Editorial note—

For orders published under subsections (1) and (2) see Gazettes No 60 of 30.3.2001, p 1674 (revoked by GG No 5 of 30.12.2002, p 17) and No 5 of 30.12.2002, p 17.

- (3) The Minister may, by order published in the Gazette, declare that stock that have been treated with or exposed to a specified stock medicine or other specified substance are chemically affected. The Minister is not to make such an order unless of the opinion that stock to which the order relates are, or are likely to become, degraded on account of the relevant treatment or exposure.
- (4) An order under subsection (3):
 - (a) may define what constitutes treatment with or exposure to the stock medicine or other substance concerned, and
 - (b) may provide that stock that are chemically affected as a result of such treatment or exposure are to be regarded as no longer so affected if they are treated in a manner described in the order or if a specified period of time has elapsed.
- (4A) An order under subsection (1) or (3) may declare stock to which the order relates to be chemically affected for the purposes of the whole of this Act or for the purposes only of specified provisions of this Act.
- (5) For the purposes of this section, stock are degraded if they:
 - (a) are unfit for sale or export for human consumption, or
 - (b) pose a danger to human or animal health or to the environment, or
 - (c) are detrimental to export or other trade.

5 Powers of inspectors

- (1) An inspector may:
 - (a) enter any land, building, vehicle, vessel or aeroplane for the purpose of searching for or examining any stock or of exercising any other power conferred by this Act or the regulations,
 - (b) take from:
 - (i) any head of stock, or
 - (ii) any carcass,a specimen of any kind for the purpose of ascertaining whether that head of stock is, or whether that carcass is derived from a head of stock that was, chemically affected,
 - (c) take samples from the soil or pasture of any land or from any fodder for the purpose of ascertaining whether that soil, pasture or fodder is capable of causing

stock to become chemically affected,

- (d) order the owner or person in charge of stock or the occupier of any land on which any stock are kept or pastured:
 - (i) to muster them at a specified place on the land or, where in the opinion of the inspector no facilities suitable for the purpose of the order exist on the land, at a specified place on other land, for the purpose of examination or of enabling the inspector to take any specimens from them or to exercise any other power conferred by this Act or the regulations, and
 - (ii) to provide such assistance as the inspector may reasonably require for the purposes of subparagraph (i),
- (e) in respect of travelling stock:
 - (i) detain them for the purpose of examination or of enabling the inspector to take any specimens from them or to exercise any other power conferred by this Act or the regulations, or
 - (ii) order the owner or person in charge of the stock to take them to a specified place for that purpose, and
- (f) demand from any person the inspector finds committing an offence against this Act or the regulations or any person whom, on reasonable grounds, the inspector suspects of having committed any such offence, the person's name and place of abode.

(2) A person shall not:

- (a) threaten, assault or wilfully delay or obstruct an inspector in the exercise of the inspector's powers under this Act or the regulations,
- (b) fail to comply with the requirements of an order under subsection (1) (d) or (e), or
- (c) upon a demand being made under subsection (1) (f), fail or refuse to state his or her name or place of abode or state a name that is not his or her name or state a place of abode that is not his or her place of abode.

Maximum penalty: 100 penalty units.

- (3) If a person fails to comply with the requirements of an order under subsection (1) (d) or (e), an inspector may carry out those requirements, with or without assistance.
- (4) The costs and expenses incurred by an inspector in the exercise of powers under subsection (3) upon non-compliance with an order are recoverable in a court of competent jurisdiction as a debt to the Crown owed by the person on whom the order was served.

- (5) A person on land, or in a building, entered under this section by an inspector must, if required to do so by the inspector:
- (a) produce any record that is in the possession, or under the control, of the person and relates to the purchase, use or disposal by the person of:
 - (i) a substance liable to produce a residue, or
 - (ii) a stock medicine or other substance the subject of an order in force under section 4, and
 - (b) permit the inspector to inspect the record, take copies of or extracts from the record and make notes relating to the record.

Maximum penalty: 100 penalty units.

5A Conditions of exercise of powers of entry

- (1) The power conferred on an inspector by section 5 to enter any land, building, vehicle, vessel or aeroplane may not be exercised unless the inspector:
- (a) has been issued by the Director-General with a certificate of authority, and
 - (b) gives reasonable notice to the occupier of the land or building, or the person in charge of the vehicle, vessel or aeroplane, unless the giving of notice would defeat the purpose for which it is intended to exercise the authority, and
 - (c) exercises the power at a reasonable hour of the day, unless it is being exercised in an emergency, and
 - (d) produces the certificate of authority if required to do so by a person apparently in charge of the land, building, vehicle, vessel or aeroplane, and
 - (e) uses no more force than is reasonably necessary to effect the entry.
- (2) A certificate of authority must:
- (a) state that it is issued under this Act, and
 - (b) give the name of the inspector to whom it is issued, and
 - (c) describe the nature of the powers conferred and the source of the powers, and
 - (d) state the date (if any) on which it expires, and
 - (e) state that the power does not authorise entry into any part of premises used for residential purposes unless the occupier consents, and
 - (f) bear the signature of the person by whom it is issued and state the capacity in which the person is acting in issuing the certificate.

- (3) An inspector may not enter any part of premises used for residential purposes unless the occupier consents.
- (4) If damage is caused by an inspector exercising a power of entry under this section, a reasonable amount of compensation is recoverable as a debt owed by the employer of the inspector to the owner of the premises or property entered, unless the exercise of the power was obstructed.
- (5) This section does not apply to a power conferred by a search warrant.
- (6) In this section:

certificate of authority means a certificate that, to enable an inspector to exercise a power conferred by section 5, is issued to the inspector by the Director-General.

6 Questions by inspectors

- (1) Where an inspector at any reasonable time informs a person that the inspector is making inquiries for the purposes of this Act in relation to any stock which are chemically affected or which the inspector suspects to be or to have been chemically affected that person shall not:
 - (a) fail to answer any question being a question relating to those stock put to the person by the inspector, or
 - (b) make a reply to any such question that is false or misleading in any material particular.

Maximum penalty: 100 penalty units.

- (2) A person referred to in subsection (1) is not excused from answering a question put to the person pursuant to that subsection on the ground that the answer might tend to incriminate the person but neither the question nor the answer is admissible in evidence against the person in criminal proceedings other than proceedings under subsection (1).

6A Commonwealth meat inspectors may exercise certain powers of inspectors

- (1) An employee under an Act of the Parliament of the Commonwealth who, in his or her capacity as such, engages in the inspection of meat may exercise the powers of an inspector referred to in section 5 (1) (b).
- (2) A reference in this Act to an inspector includes a reference to a person referred to in subsection (1) in the course of exercising, as referred to in that subsection, the powers of an inspector.

7 Temporary notice for detention of chemically affected stock

- (1) An inspector may give to a person who owns or is in charge of stock which are

chemically affected or which the inspector suspects are chemically affected a notice (in a form approved by the Director-General) that requires that person, except as provided in section 9:

- (a) to keep those stock at a specified place for a specified period (not exceeding forty days), and
- (b) where any of those stock are not situated at the place specified in the notice at the time the notice is given, to move them to that place.

- (1A) An inspector may, with the approval of the Director-General, extend the period of a detention notice under subsection (1) for a further period (not exceeding 40 days) specified in a further notice in writing given to the person who owns or is in charge of the stock to which the detention notice relates.
- (1B) The power conferred on an inspector by subsection (1A) may not be exercised more than twice in respect of any detention notice.
- (2) Where an inspector gives a detention notice under subsection (1) in respect of stock which the inspector only suspects are chemically affected, the inspector shall take for analysis specimens from those stock or from a sample of those stock or exercise any other power conferred by this Act for the purpose of ascertaining whether those stock are chemically affected.
- (3) The Minister, or the inspector who gave a person a detention notice under subsection (1), may, by a further notice to that person, revoke the detention notice or release any of the stock from being bound by it.
- (4) A person contravenes this section if:
 - (a) the person does not comply with the requirements of a detention notice given to the person under subsection (1), or
 - (b) the person moves stock that, to his or her knowledge, are subject to a detention notice given to some other person under subsection (1) from the place specified in the notice.

Maximum penalty: 100 penalty units.

7A Undertaking in respect of chemically affected stock

- (1) An inspector may, if the inspector thinks fit, accept from a person who owns or is in charge of stock which are chemically affected or which the inspector suspects are chemically affected an undertaking to comply with the requirements contained in the undertaking.
- (2) The undertaking must be in a form approved by the Director-General.

- (3) The person giving the undertaking must comply with all the terms and conditions of the undertaking.

Maximum penalty: 100 penalty units.

- (4) An inspector may release the person from the undertaking and on release subsection (3) ceases to have effect with respect to the undertaking.
- (5) The undertaking ceases to have effect on the giving of a notice under section 8 in respect of stock to which the undertaking relates.

8 Notice for detention of chemically affected stock

- (1) The Minister may, personally or by an authorised agent, give to a person who owns or is in charge of:

- (a) particular stock which are chemically affected, or
- (b) any stock which are on the same holding as chemically affected stock and which, in the opinion of the Minister, are likely to be chemically affected,

a notice (in a form approved by the Director-General) that requires that person, except as provided in section 9:

- (c) to keep those stock at a specified place, and
- (d) where any of those stock are not situated at the place specified in the notice at the time the notice is given, to move them to that place.
- (2) A detention notice given by an inspector under section 7 shall be deemed to have been revoked in respect of any stock to which it relates that are subject to a detention notice given by the Minister under subsection (1).
- (3) The Minister may, by a further notice given to a person to whom a detention notice has been given under subsection (1), revoke the detention notice or release any of the stock from being bound by it.
- (3A) The Minister may give the further notice referred to in subsection (3) either personally or by an authorised agent, regardless of the manner in which the notice under subsection (1) was given.
- (4) An inspector is an authorised agent for the purposes of this section but this subsection does not operate to prevent the Minister from appointing any other authorised agent.
- (5) A person contravenes this section if:
- (a) the person does not comply with the requirements of a detention notice given to the person under subsection (1), or

- (b) the person moves stock that, to his or her knowledge, are subject to a detention notice given to some other person under subsection (1) from the place specified in the notice.

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

9 Permits for movement of stock subject to detention notice

- (1) An inspector may issue a permit in a form approved by the Director-General to the owner or person in charge of stock subject to a detention notice authorising the owner or person to move, in accordance with any terms and conditions specified in the permit, all or any of the stock from the place at which they are kept pursuant to the detention notice to another place, specified in the permit, at which they are to be kept or at which they are to be slaughtered.
- (2) Where stock are subject to a detention notice given under section 8, an inspector shall not issue a permit under subsection (1) to move those stock to a place for slaughter without the approval of the Minister.

9A Requirements for moving stock

- (1) The regulations may prescribe requirements to be complied with by persons who own or are in charge of any stock that are to be or are being moved from one place to another, including stock that are to be or are being moved into New South Wales from a place outside the State.
- (2) Without limiting the generality of subsection (1), a regulation made for the purposes of this section may:
 - (a) require a statutory or other declaration to be made as to the places where the stock concerned have been and their destination, and
 - (b) require stock to be marked or tagged, and
 - (c) place reasonable limits on the ports or places to or through which the stock may be moved, and
 - (d) impose other requirements for the purpose of ascertaining or estimating whether and to what extent the stock are chemically affected and of containing or mitigating any adverse effects, and
 - (e) impose a penalty not exceeding 100 penalty units for moving any stock in contravention of the regulation.

10 Power to seize stock

- (1) Where any stock have been moved contrary to the provisions of this Act or any

regulation, notice or order made, given or served under this Act, the stock may be seized by an inspector or by a member of the police force.

- (2) Any stock seized under subsection (1) shall be disposed of in the manner prescribed by the regulations.

11 Destruction of chemically affected stock etc

- (1) Where, in the opinion of the Minister, there is no reasonable possibility that particular chemically affected stock would ever cease to be chemically affected, the Minister may order:

(a) any owner or any person in charge of the stock, or

(b) any owner or occupier of land on which the stock are kept or pastured,

to destroy or dispose of the stock in such manner and under such conditions as may be specified in the order.

- (2) Where, in the opinion of the Minister, stock are likely to become chemically affected by feeding on particular fodder, the Minister may order the owner or person in possession of that fodder to destroy or dispose of it in such manner and under such circumstances as may be specified in the order.

- (3) If a person fails to comply with the requirements of an order under subsection (1) or (2), the Minister may, by the Minister's authorised agents, enter upon the land on which the stock are or fodder is situated and carry out those requirements.

- (4) Any costs and expenses incurred by the Minister in the exercise of the Minister's powers under subsection (3) upon non-compliance with an order are recoverable in a court of competent jurisdiction as a debt to the Crown owed by the person on whom the order was served.

- (5) Compensation is not payable in respect of the destruction or disposal of any stock or fodder in the course of exercising the powers conferred by this section.

12 Restriction or prohibition on grazing stock on certain land

- (1) Where the Minister is of the opinion that the grazing of stock on particular land is likely to cause the stock to become chemically affected, the Minister may, by notification published in the Gazette, restrict or absolutely prohibit the grazing on that land of all or any class of stock.

- (2) The Minister may by a like notification vary or revoke any notification published under this section.

- (3) A person contravenes this section if the person fails to comply with any requirements of a notification published under this section.

Maximum penalty: 100 penalty units.

12A (Repealed)

12B Representations on sale of stock after treatment

A seller of stock who represents to the buyer that the stock have not been treated with a stock medicine or other substance specified in an order in force under section 4 is guilty of an offence if the seller:

- (a) knew that the stock had been treated with such a stock medicine or other substance, or
- (b) did not know whether the stock had been so treated.

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

12C Reporting of test results

The owner of a laboratory or other facility where any test has been carried out to determine whether particular stock are chemically affected must:

- (a) if the result of the test indicates that the stock concerned are chemically affected, cause particulars of those results to be furnished to the holder of any office, or the holders of any offices, prescribed by the regulations, in the manner and form, and within the time, prescribed by the regulations, or
- (b) if the result of the test indicates that the stock concerned are not chemically affected, cause particulars of those results to be furnished to the holder of any office, or the holders of any offices, prescribed by the regulations, in the manner and form, and within a time, reasonably required by the Minister by notice in writing addressed to the operator or manager of the laboratory or other facility.

Maximum penalty: 100 penalty units.

12D Providing false or misleading information

- (1) A person must not, in making a statement or providing information for the purposes of this Act, make a statement or provide information to the Minister or a person engaged in the administration of this Act, or to any other person, that is false or misleading in a material particular.

Maximum penalty: 100 penalty units.

- (2) A person must not, in connection with a sale or disposition or proposed sale or disposition of stock, make a statement or provide information in relation to:
 - (a) the presence or absence of chemicals in stock, carcasses or land, or
 - (b) whether stock are chemically affected, or

(c) any matter relevant to an assessment of the likelihood of chemical residues in stock, or

(d) any other matter prescribed by the regulations,

that is false or misleading in a material particular.

Maximum penalty: 100 penalty units.

(3) It is a defence to a prosecution for an offence against this section if the defendant satisfies the court:

(a) in the case of a prosecution in relation to making a false statement or providing false information, that the defendant reasonably believed that the statement or information was true, or

(b) in the case of a prosecution in relation to making a misleading statement or providing misleading information, that the defendant had no intention, in making the statement or providing the information, to mislead.

12E Protection from liability for furnishing of information or advice

(1) The provision, by the Minister or a person concerned in the administration of this Act, of any information or advice in relation to the presence or absence of chemicals in stock, carcasses or land, does not subject the Minister or person to any liability if the information or advice was provided in good faith.

(2) The furnishing of particulars as required by section 12C does not subject the person who furnished them, or the owner of a laboratory or other facility on whose behalf they were furnished, to any civil liability arising from any confidentiality of those particulars.

13 Orders and notices generally

An order or notice required by this Act or the regulations to be served on or given to any person may be served or given by leaving it at the person's usual or last known place of residence or business or may be served or given personally or by post addressed to the person's last known place of residence or business or in such manner as may be prescribed.

13A Delegation of functions

(1) The Minister may delegate the power to make orders under section 4 to the Director-General or to such other officer as the regulations may prescribe.

(2) The Minister may delegate any of the Minister's other powers, authorities, duties and functions under this Act (apart from this power of delegation):

(a) to any officer (or class of officers) of the Department, and

(b) to any other person (or class of other persons) prescribed by the regulations.

- (3) The Director-General may delegate any of the Director-General's powers, authorities, duties and functions under this Act (apart from this power of delegation) to any officer (or class of officers) of the Department.

14 Evidence

- (1) In any proceedings arising under this Act or the regulations, a certificate purporting to be signed by a person appointed as an analyst by the Minister by notification published in the Gazette for the purposes of this Act, and:

(a) certifying that he or she has examined any stock or carcass, or any specimens obtained from any stock or carcass, or any sample of soil, pasture or fodder or any article submitted to him or her by the Minister, the Director-General, or an inspector, and

(b) certifying the result of the examination and any conclusions arrived at by him or her as a result of that examination,

shall, without proof of the signature or appointment of the person signing the certificate, be admissible and be evidence of the matters certified in the certificate.

- (2) In any prosecution for an offence under this Act or the regulations in respect of stock, proof that a detention notice was given under this Act shall be evidence that the notice had not been revoked at the time of the alleged offence in so far as it related to the stock.

- (3) A copy of a notice given to a person on a particular day in the manner prescribed by this Act that:

(a) purports to be a detention notice, and

(b) bears a signature purporting to be the signature of the Minister, an inspector or a delegate of the Minister,

is, without proof of the signature or of the official character of the signatory, evidence that the notice was given to that person on that day by the Minister, an inspector or a delegate of the Minister, as the case may be.

15 Proceedings for offences

- (1) Proceedings for an offence under this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone or before the Supreme Court in its summary jurisdiction.

- (2) If proceedings for an offence are brought before a Local Court, the maximum monetary penalty that the Court may impose is the lesser of:

- (a) 50 penalty units, and
 - (b) the maximum monetary penalty provided by this Act or the regulations for the offence.
- (3) Proceedings before a Local Court for an offence under this Act must be commenced not later than 12 months after the time at which the offence is alleged to have been committed.

16 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, prescribing any matter which is required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), the Governor may make regulations for or with respect to:
 - (a) schemes of identification of stock (whether on a compulsory or voluntary basis), and
 - (b) the procedures to be adopted by an inspector when taking for analysis specimens or samples under section 5, and
 - (c) prescribing and regulating the branding, marking, earmarking or tagging of stock subject to a detention notice.
- (3) The regulations may impose a penalty not exceeding 50 penalty units for an offence arising under the regulations.
- (4) Regulations may be made so as to apply differently according to such factors as may be specified in the regulations.
- (5) The regulations may authorise any matter or thing to be from time to time determined, applied or regulated by the Minister, the Director-General, an inspector or any other officer specified therein, either generally or for any class of cases or in a particular case.
- (6) Regulations made for the purposes of subsection (2) (a) may provide for the application (with or without modification), for the purposes of this Act, of schemes of identification of stock established under the *Stock Diseases Act 1923* and the use, for the purposes of this Act, of data recorded under those schemes.

17 Savings and transitional provisions

Schedule 1 has effect.

Schedule 1 Savings and transitional provisions

(Section 17)

Part 1 Preliminary

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Stock (Chemical Residues) Amendment Act 1996

Stock (Chemical Residues) Amendment Act 1999

- (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done, or omitted to be done, before the date of its publication.

Part 2 Provisions consequent on enactment of **Stock (Chemical Residues) Amendment Act 1996**

2 Orders under repealed section 4

An order in force under section 4 immediately before the commencement of Schedule 1 [5] to the *Stock (Chemical Residues) Amendment Act 1996* continues in force as if made under subsection (1) of that section, as inserted by that Act.

3 Orders under repealed section 12A

An order in force under section 12A immediately before the commencement of Schedule 1 [14] to the *Stock (Chemical Residues) Amendment Act 1996* continues in force as if made under subsection (3) of section 4, as inserted by that Act.

Part 3 Provisions consequent on enactment of **Stock (Chemical**

Residues) Amendment Act 1999

4 Protection from liability for furnishing information or advice

Section 12E (1), as amended by Schedule 1 [2] of the *Stock (Chemical Residues) Amendment Act 1999*, applies to the provision of information or advice before or after the commencement of that item.

Part 4 Provisions consequent on enactment of Statute Law (Miscellaneous Provisions) Act (No 2) 2004

5 Continuity of things done by Chief, Division of Animal Industries

Anything done by the Chief, Division of Animal Industries under or for the purposes of a provision of this Act is, to the extent that the thing done had effect immediately before the amendment of this Act by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2004*, taken to have been done by the Director-General.