

# Apiaries Act 1985 No 16

[1985-16]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

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

### Notes—

- **Does not include amendments by**
  - [Apiaries Amendment Act 2006 No 99](#), Sch 1 [9] [19] and [21] (not commenced)
  - [Miscellaneous Acts \(Local Court\) Amendment Act 2007 No 94](#) (not commenced)
  - [Rural Lands Protection Amendment Act 2008 No 112](#) (not commenced — to commence on 1.1.2009)

### Authorisation

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New South Wales

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# Apiaries Act 1985 No 16



New South Wales

An Act to regulate the keeping of bees in New South Wales; to require and provide for the registration of beekeepers; to prevent the introduction of, and to control and eradicate, certain diseases and pests which afflict bees and apiaries in New South Wales; to provide for the payment of compensation to registered beekeepers in certain cases; and for certain other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Apiaries Act 1985*.

### 2 Commencement

- (1) Sections 1 and 2 shall commence on the date of assent to this Act.
- (2) Subject to subsection (7), section 50 and clause 6 of Schedule 5 shall commence on the date of assent to this Act.
- (3) Section 18, the provisions of Part 6 (so far as they relate to the operation of that section) and section 3 (so far as it relates to that section and those provisions) 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.
- (4) Sections 4, 7, 8 and 9, the provisions of Part 6 (so far as they relate to the refusal of applications made under section 7) and section 3 (so far as it relates to those sections and provisions) 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.
- (5) Except as provided by subsections (1)–(4) and (6), this Act shall commence on 1 July that next falls at least 3 months after the day appointed and notified under subsection (4).
- (6) Section 15 shall commence on the day that is the first anniversary of the 1 July referred to in subsection (5).
- (7) Regulations made under section 50 may be made at any time after the

commencement of that section, but those regulations shall not take effect:

- (a) where they relate to section 18 or to the provisions of Part 6, before the day appointed and notified under subsection (3),
- (b) where they relate to sections 4, 7 and 8, before the day appointed and notified under subsection (4), or
- (c) where they relate to section 9 or to the provisions of this Act to which subsection (5) applies, before 1 July immediately following the day appointed and notified under subsection (4).

### 3 Definitions

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

**apiary** means a beehive or a group of beehives.

**apiary product** means beeswax, honey, cut comb honey, comb sections, bee combs, honey dew, bee collected pollen, propolis, queen candy or royal jelly, or any other substance declared by the regulations to be an apiary product for the purposes of this Act.

**appliance** means any fitting, utensil, apparatus or implement that is used or has been used for the purposes of, or in connection with, beekeeping, or in processing, handling or storing apiary products.

**approved** means approved by the Director-General.

**bee** means a bee of the genus *Apis mellifera* L. or of any other genus of bee prescribed in the regulations for the purposes of this Act.

**beehive** or **hive** means a receptacle used for housing living bees.

**beekeeper**, in relation to bees or an apiary, means a person by whom or on whose behalf those bees or bees in that apiary are kept.

**beeswax** means the wax secreted by bees as bee comb material and includes raw beeswax, refined beeswax and commercial beeswax.

**broodbox** means the bottom box of an active beehive.

**commercial beeswax** means beeswax produced for sale by a manufacturer of apiary products.

**compensatable disease** means a disease for the time being specified in Schedule 3.

**Department** means the Department of Primary Industries.

**direct** means direct by notice in writing.

**director**, in relation to a corporation, includes any person who is concerned in the management of the corporation, whether described as a director or not.

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

**frame** means a frame in which bee combs are built.

**frame hive** means:

- (a) a beehive containing only movable frames which may be separately and readily removed for examination, or
- (b) a beehive containing:
  - (i) fixed frames in the honey-super boxes of the hive,
  - (ii) in the broodbox of the hive, movable frames of the kind referred to in paragraph (a), and
  - (iii) a queen excluder which is fitted immediately above the broodbox of the hive in order to prevent the queen from gaining access to the honey-super boxes of the hive.

**honey** means saccharine secretions from the nectaries of flowers that are gathered, modified and stored in bee combs and are laevo-rotatory.

**honey dew** means the saccharine exudations of living parts of plants, and the sweet liquid excreted by hemipterous insects feeding on plants, that are gathered, modified and stored in bee combs and are dextro-rotatory.

**honey-super boxes** means the upper boxes of a beehive in which bees store honey.

**infected** includes contaminated and also includes infested.

**inspector** means a person appointed and holding office under this Act as an inspector, and includes a temporary inspector.

**keep** includes have possession of and also includes have control of.

**notifiable disease** means a disease or pest for the time being specified in Schedule 1.

**package** includes a container of any description.

**premises** means any place, vehicle, ship, vessel, aircraft or other means of transport and includes any tent and any movable structure.

**prescribed disease** means a disease or pest for the time being specified in Schedule

2.

**Public Service** means the Public Service of New South Wales.

**queen candy** means the substance made by kneading powdered sugar into honey (or into an invert sugar syrup) until a stiff dough is formed.

**raw beeswax** includes beeswax which is heated in order to remove the honey therefrom but from which extraneous matter has not been removed.

**refined beeswax** means beeswax which is heated to melting point and from which extraneous matter has been removed by the process of straining out.

**register** means the register of beekeepers kept under section 13.

**registered** means registered under this Act.

**regulations** means regulations made and in force under this Act.

**residue** means:

- (a) a substance remaining in the body tissues or secretions of a bee 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 a bee in an abnormal concentration.

**the repealed Act** means the [Apiaries Act 1916](#).

**treat** includes cleanse, disinfect, decontaminate and effect a cure.

- (2) In this Act, a reference to this Act includes a reference to the regulations.
- (3) In this Act, a reference to a sale includes a reference to bartering, exchanging, offering for sale, exposing for sale, agreeing to sell and sending, forwarding or delivering for sale.
- (4) For the purposes of this Act, a person shall not be regarded as a beekeeper only because:
  - (a) another person operates an apiary or keeps bees on that person's premises, or
  - (b) wild bees, or bees that have escaped from another person's apiary, are situated on the first-mentioned person's premises.
- (5) In this Act:
  - (a) a reference to a function includes a reference to a power, an authority and a duty, and



(b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

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

## **Part 2 Administration**

### **4 (Repealed)**

### **5 Inspectors**

- (1) The Director-General may appoint as inspectors such officers of the Public Service who are employed in a Government Department of which the Director-General is the Department Head as the Director-General considers necessary for the proper administration and enforcement of this Act.
- (2) Without limiting subsection (1), the Director-General may, by notification published in the Gazette, appoint one or more persons as temporary inspectors for the purposes of this Act.
- (3) The Director-General is, by virtue of his or her office, an inspector for the purposes of this Act.
- (4) The Director-General shall issue to each inspector a certificate of the inspector's authority under this Act.
- (5) A certificate of authority issued to an inspector under subsection (4) shall either:
  - (a) specify that the inspector has all the functions of an inspector under this Act, or
  - (b) specify which of those functions shall be exercised and which of those powers may be exercised by the inspector.
- (6) Where in any place an inspector is about to exercise, or is in the course of exercising, a function imposed or conferred on the inspector by this Act and a person apparently in charge of the place, or of any activity carried on there, requests the inspector to produce the inspector's certificate of authority as such, it is not lawful for the inspector to exercise or, as the case may be, to continue to exercise that function unless the inspector produces that certificate to that person.
- (7) Notwithstanding any other provision of this Act, an inspector does not have authority under this Act to enter a dwelling-house or other residential premises without the consent of the occupier unless the business of a corporation or an activity connected with beekeeping is carried on in that house or those premises, as the case may be.

## **Part 3 Registration of beekeepers**

### **6 Unregistered person not to keep bees**

- (1) A person shall not, either alone or in partnership with another person or through an employee or agent, keep bees or act as or carry on the business of a beekeeper unless the first-mentioned person is registered as a beekeeper.

Maximum penalty: 20 penalty units.

- (2) A person shall not carry on a business of keeping bees in partnership with another person who, to the knowledge of the first-mentioned person, is not registered.

Maximum penalty: 10 penalty units.

- (3) The fact that a member of a partnership established for the purpose of carrying on a business of keeping bees is not registered is a sufficient ground for dissolving the partnership.

- (4) Where a registered beekeeper has died, the executor or administrator of the estate of the beekeeper may continue to keep the bees belonging to that estate for a period not exceeding 6 months after that beekeeper's death, and during that period:

- (a) subsections (1) and (2) shall not apply to or in respect of that executor or administrator, and
- (b) the provisions of this Act, other than subsections (1) and (2), shall apply to and in respect of that executor or administrator as if that executor or administrator were registered as a beekeeper,

in relation to the keeping of those bees.

- (5) Subsection (4) has effect notwithstanding that probate has not been granted to the executor or, as the case may be, letters of administration have not been granted to the administrator at any relevant time.

### **7 Application for registration**

- (1) Any person may make an application to the Director-General for registration under this Act as a beekeeper.

- (2) An application for registration:

- (a) must be in an approved form, and
- (b) must be lodged with the Director-General, and
- (c) must be accompanied by the prescribed registration fee.

- (3) The Director-General may require an applicant to provide the Director-General with

such further information as the Director-General considers necessary in relation to the application and, where the Director-General requires any such information, the Director-General may decline to deal with the application further unless that information is provided in accordance with the requirement.

- (4) If an applicant:
- (a) in an application under this section, provides information that is, to the knowledge of the applicant, false or misleading in a material respect, or
  - (b) omits to provide information in such an application which, to the knowledge of the applicant, thereby renders the application misleading in a material respect,
- the applicant is guilty of an offence and liable on conviction to a penalty not exceeding 10 penalty units.

## **8 Grant or refusal of application for registration**

- (1) On receipt of an application made in accordance with section 7, the Director-General shall grant the application unless the application is withdrawn or unless:
- (a) the Director-General is not satisfied that the applicant is a fit and proper person to be registered, or
  - (b) it appears to the Director-General that:
    - (i) the application contains information that is materially false or misleading, or
    - (ii) information has been omitted from the application and the omission has rendered the application materially misleading,
- and in any of the cases mentioned in paragraphs (a) and (b) the Director-General may refuse the application.
- (2) For the purposes of subsection (1), an applicant under section 7 may be regarded as not being a fit and proper person if:
- (a) the applicant, whether a natural person or a corporation:
    - (i) has during a period beginning 5 years before the date on which the application was made and ending with the date on which the application is determined, been found guilty on 2 or more occasions of offences under a provision, or under different provisions, of this Act, the repealed Act, or a prescribed law of another State, or of a Territory, of the Commonwealth corresponding to this Act, or of a combination of any of the foregoing, or
    - (ii) is a person who was declared under section 12 (3) or (5) to be a disqualified person and the period for which that person has been disqualified has not expired, or

- (b) where the applicant is a corporation, any person who is a director of the corporation:
  - (i) has, during the period specified in paragraph (a) (i), whether in relation to that corporation or not, been found guilty on 2 or more occasions of an offence, or of different offences, of the kind mentioned in paragraph (a) (i), or
  - (ii) is a person who was declared under section 12 (3) or (5) to be a disqualified person and the period for which that person has been disqualified has not expired.
- (3) As soon as practicable after granting an application made under section 7, the Director-General:
  - (a) shall register the applicant by causing the particulars required by section 13 (3) to be entered in the register of beekeepers in respect of the applicant and by issuing to the applicant, on payment of such fee as may be prescribed by the regulations, a certificate of registration in an approved form, and
  - (b) shall allocate to the applicant a registration number which is to be displayed on the broodbox of each beehive kept or proposed to be kept by the applicant.
- (4) A registration number allocated under subsection (3) (b) may include numbers only or a combination of letters and numbers.
- (5) The registration of a person as a beekeeper shall, unless sooner cancelled under section 12, continue in force for a period of 2 years from and including the date of issue of the certificate of registration and, unless renewed under section 11, shall then expire.
- (6) An application made under section 7 shall not be refused under this section unless the Director-General has first afforded the applicant an opportunity to appear and make representations and adduce evidence at a hearing held by the Director-General to determine the application.
- (7) When holding a hearing for the purposes of subsection (6), the Director-General:
  - (a) may conduct the hearing in such manner as the Director-General considers appropriate,
  - (b) is not bound to observe rules of law governing the admission of evidence but may inform himself or herself of any matter in such manner as the Director-General considers appropriate,
  - (c) may call and receive evidence as to any matter relevant to the hearing, and
  - (d) may, from time to time as the Director-General considers appropriate, adjourn the hearing.

- (8) If an application made under section 7 is refused, the Director-General must:
- (a) give the applicant a notice in accordance with section 48 (Notice of decision and review rights to be given by administrators) of the *Administrative Decisions Tribunal Act 1997*, and
  - (b) immediately refund to the applicant the registration fee that accompanied the application.

## **9 Registration may be subject to conditions etc**

The registration of a person as a beekeeper is subject to such conditions and restrictions (if any) as are prescribed.

## **10 Particular duties of a registered beekeeper**

- (1) A registered beekeeper shall:
- (a) keep in the English language such records as may be prescribed, containing such particulars as may be prescribed relating to the keeping of bees by that beekeeper, the movement of the beehives in which those bees are kept and the production of apiary products derived from those bees and hives, and
  - (b) preserve each of those records for a period of not less than 5 years after the last entry was made in it.
- (2) Subsection (1) does not apply so as to require the preservation of any records:
- (a) in respect of which the Director-General has notified the beekeeper concerned that preservation is not required, or
  - (b) of a corporation which, having gone into liquidation, has finally been dissolved.
- (3) Whenever a registered beekeeper disposes of a beehive, whether by sale or otherwise, the beekeeper shall, not later than 21 days after the disposal, notify the Director-General of the disposal by means of an approved form.
- (4) A registered beekeeper who fails to comply with subsection (1) (a) or (b) or (3) is guilty of an offence and liable on conviction to a penalty not exceeding 10 penalty units.

## **11 Renewal of registration**

- (1) A registered beekeeper may, at any time within the period of 30 days before the expiry of the beekeeper's registration, make an application to the Director-General for the registration to be renewed.
- (2) An application for renewal of registration:
- (a) must be in an approved form, and

- (b) must be lodged with the Director-General, and
  - (c) must be accompanied by the prescribed registration fee.
- (3) On receipt of an application made in accordance with subsections (1) and (2), the Director-General shall grant the application unless the application is withdrawn or unless:
- (a) the Director-General is satisfied on reasonable grounds that circumstances exist which would justify the cancellation of the applicant's registration under section 12 (3) or (4), or
  - (b) it appears to the Director-General that:
    - (i) the application contains information that is materially false or misleading, or
    - (ii) information has been omitted from the application and the omission has rendered the application materially misleading,
- and in any of the cases mentioned in paragraphs (a) and (b) the Director-General may refuse the application.
- (4) An application for renewal of the registration of a beekeeper shall not be refused under this section unless the Director-General has first afforded the applicant an opportunity to appear and make representations and adduce evidence at a hearing held by the Director-General to determine the application.
- (5) When holding a hearing for the purposes of subsection (4), the Director-General:
- (a) may conduct the hearing in such manner as the Director-General considers appropriate,
  - (b) is not bound to observe rules of law governing the admission of evidence but may inform himself or herself of any matter in such manner as the Director-General considers appropriate,
  - (c) may call and receive evidence as to any matter relevant to the hearing, and
  - (d) may, from time to time as the Director-General considers appropriate, adjourn the hearing.
- (6) As soon as practicable after granting an application under this section, the Director-General shall:
- (a) renew the registration of the applicant by causing an appropriate entry to be made in relation to the applicant in the register of beekeepers, and
  - (b) issue to the applicant, on payment of such fee as may be prescribed by the regulations, a fresh certificate of registration in an approved form.

- (7) The registration number of a beekeeper whose registration is renewed under this section shall, unless the Director-General decides at the time of determining the application for renewal of the registration to allocate a fresh registration number, continue to be the registration number which was applicable to that beekeeper immediately before that application was granted.
- (8) Where an application for the renewal of the registration of a beekeeper is made on or before the date on which that registration would have expired if no such application has been made and the renewal is granted on or before that date, that registration shall, unless sooner cancelled under section 12, continue in force for a further period of 2 years from and including the day after that date and, unless further renewed under this section, shall then expire.
- (9) Where an application for the renewal of the registration of a beekeeper is made on or before the date on which that registration would have expired if no such application for renewal had been made, the renewal is not granted on or before that date and the application is not withdrawn on or before that date, that registration shall, unless subsequently refused or unless sooner cancelled under section 12:
- (a) be deemed to continue in force from and including the day after that date until the renewal is granted or the application is withdrawn, whichever first occurs, and
  - (b) on the grant of the renewal, be in force for the remaining portion of the period of 2 years commencing on that day,
- and, unless further renewed under this section, shall then expire.
- (10) A renewal of the registration of a beekeeper under subsection (8) shall be expressed to have taken effect from and including the day after the date on which that registration would have expired if no application for renewal had been made before that date.
- (11) If an application for the renewal of the registration of a beekeeper is refused, the Director-General must:
- (a) give the applicant a notice in accordance with section 48 (Notice of decision and review rights to be given by administrators) of the *Administrative Decisions Tribunal Act 1997*, and
  - (b) immediately refund to the applicant the registration fee that accompanied the application.
- (12) If an applicant:
- (a) in an application under this section, provides information that is, to the knowledge of the applicant, false or misleading in a material respect, or
  - (b) omits to provide information in such an application which, to the knowledge of the

applicant, thereby renders the application misleading in a material respect, the applicant is guilty of an offence and liable on conviction to a penalty not exceeding 10 penalty units.

## **12 Cancellation of registration**

(1) Subject to subsection (2), where:

- (a) the Director-General becomes aware that a registered beekeeper has died or, in the case of a beekeeper that is a corporation, that the corporation has been dissolved, or
- (b) a registered beekeeper has surrendered the beekeeper's certificate of registration with a request in writing that the registration of the beekeeper be cancelled,

the Director-General may cancel the registration of the beekeeper.

(2) Subsection (1) does not empower the Director-General to cancel the registration of a deceased beekeeper while the executor or administrator of the estate of the beekeeper is continuing, pursuant to section 6 (4), to keep the bees belonging to the estate of the beekeeper.

(3) Where the Director-General is satisfied on reasonable grounds that a person, whether a natural person or a corporation, registered as a beekeeper:

- (a) is contravening or failing to comply with, or has contravened or failed to comply with, a prescribed condition or restriction that is applicable to that person,
- (b) is contravening or has contravened a prohibition imposed under section 18 or has failed to comply with a direction given by the Director-General under that section,
- (c) is contravening or has contravened a prohibition contained in an order that is in force under section 19, 23 or 26,
- (d) has refused or failed to comply with a direction given to or a requirement made of that person by an inspector under section 24 or 25, or
- (e) has, during the immediately preceding period of 5 years, been found guilty on 2 or more occasions of an offence, or of different offences, under this Act, the repealed Act, or a prescribed law of another State, or of a Territory, of the Commonwealth corresponding to this Act, or under any combination of the foregoing,

the Director-General may, subject to subsection (9), cancel the registration of that person as a beekeeper and may also, subject to that subsection:

- (f) where that person is a natural person, declare that person to be disqualified from being registered as a beekeeper and from being a director of a corporation that is so registered, or



- (g) where that person is a corporation, declare that corporation to be disqualified from being registered as a beekeeper and any specified director of the corporation to be disqualified from being so registered and from being a director of a corporation that is so registered,
- for a period not exceeding 5 years.
- (4) Where a registered beekeeper, being a corporation, appoints a disqualified person as a director of the corporation, the Director-General may, subject to subsection (9), cancel the registration of that corporation as a beekeeper.
- (5) Where, but for this subsection, the registration of a corporation would be liable to be cancelled under subsection (3) and the Director-General is satisfied on reasonable grounds that that liability arose because of the acts or defaults of a person who is no longer a director of the corporation, the Director-General may, instead of taking action under subsection (3), declare that person to be disqualified from being registered as a beekeeper, and from being a director of a corporation that is so registered, for a period not exceeding 5 years.
- (6) Where the Director-General cancels the registration of a person under subsection (3) or (4) or declares a person to be disqualified under subsection (3) or (5), the Director-General shall forthwith serve on that person a notice of the cancellation or declaration and shall specify in the notice the reasons for the cancellation or declaration.
- (7) Where a person is served under subsection (5) with a notice to the effect that that person's registration has been cancelled, the person shall, within 7 days after the service of the notice, surrender that person's certificate of registration to the Director-General who shall, on receiving the certificate, cancel it.
- (8) Any person who, without reasonable excuse, fails to surrender a certificate of registration as required by subsection (7) is guilty of an offence and liable on conviction to a penalty not exceeding 10 penalty units.
- (9) The registration of a person shall not be cancelled under subsection (3) or (4), nor shall a declaration disqualifying a person be made under subsection (3) or (5), unless the Director-General has first afforded that person an opportunity to appear and make representations at a hearing held by the Director-General to determine whether or not that registration should be cancelled or such a declaration should be made.
- (10) When holding a hearing for the purposes of subsection (9), the Director-General:
- (a) may conduct the hearing in such manner as the Director-General considers appropriate,
  - (b) is not bound to observe rules of law governing the admission of evidence but may inform himself or herself of any matter in such manner as the Director-General considers appropriate,

- (c) may call and receive evidence as to any matter relevant to the hearing, and
- (d) may, from time to time as the Director-General considers appropriate, adjourn the hearing.

(11) A decision of the Director-General under subsection (3) or (5) does not take effect:

- (a) until the period prescribed by or under the *Administrative Decisions Tribunal Act 1997* within which an application to the Administrative Decisions Tribunal may be made has expired, or
- (b) if any such application is made within that period, until the application is determined or is withdrawn.

### **13 Director-General to keep register of beekeepers**

- (1) The Director-General is to keep a register of beekeepers for the purposes of this Act.
- (2) The register is to be kept in such form as the Director-General considers appropriate.
- (3) The Director-General shall cause to be entered in the register:
  - (a) the name of each person registered as a beekeeper and the registration number allocated to that person,
  - (b) where the registered person is a corporation, the names of the directors, the secretary or secretaries and the principal executive officer of the corporation,
  - (c) the date on which the person first became registered and, where the registration of a person is renewed under section 11, each date of renewal,
  - (d) where the registered person does not carry on a business of beekeeping, the address of the place at which the person ordinarily resides,
  - (e) where the person does carry on a business of beekeeping, the address of the place or places at which the business is carried on and, if the person is a corporation, the address of the registered office, or, if that office is located outside New South Wales, the principal place of business of the corporation in New South Wales,
  - (f) such other particulars as may be prescribed for the purposes of this subsection, and
  - (g) any material change in the particulars recorded in the register.
- (4) Where the registration of a person expires under section 8 or 11 or is cancelled under section 12, the Director-General shall make an entry to that effect in the appropriate place in the register.

- (5) A person is entitled to inspect the register and make copies of, or make notes in respect of, any entry in the register and is, on payment of the prescribed fee, entitled to be provided with a copy of the register or of any such entry.
- (6) Subsection (5) does not apply where the register is kept in a computer data base, but if the register is so kept, a person is, on payment of the prescribed fee, entitled to a copy of a computer print-out of the register or of any entry in the register.
- (7) In any legal proceedings, a copy of an entry in the register, purporting to be certified by the Director-General as a true copy of the entry, shall be admissible in evidence and, in the absence of evidence to the contrary, shall be evidence of the contents of the entry.
- (8) The requirement under subsections (5) and (6) for payment of a prescribed fee does not apply if the person inspecting the register and obtaining the relevant copy is an authorised officer who is doing so in the person's capacity as such an officer.
- (9) In this section, **authorised officer** means any of the following:
  - (a) an inspector,
  - (b) a police officer,
  - (c) an employee of a local council,
  - (d) any other person of a class approved by the Director-General for the purposes of this definition.

## **Part 4 Regulation of beekeeping activities**

### **Division 1 General regulatory requirements**

#### **14 Bees to be kept in frame hives**

- (1) A person shall not keep bees, or allow bees to be kept in an apiary, except in a frame hive.  
Maximum penalty: 10 penalty units.
- (2) Where an inspector finds that the bee combs in the broodnest of a beehive containing frames cannot, without cutting, be separately removed from the hive for examination, the inspector may direct the beekeeper to transfer the bees in the hive to a frame hive within a specified period, and the beekeeper shall comply with the direction within that period.
- (3) Where bees are kept or have become established in a hive other than a frame hive, an inspector may:
  - (a) direct the beekeeper to transfer to a frame hive within a specified period the bees,

honey and bee combs contained in the first-mentioned hive, or

- (b) destroy the hive in which the bees are kept or have become established and the bees, apiary products and appliances on or within that hive.
- (4) If any person fails within the specified period to carry out any directions given by an inspector under subsection (2) or (3) in relation to a beehive, the inspector or a person authorised by the inspector in writing, may enter on the land in which the hive is located and may destroy the hive, and the bees, apiary products and appliances on or within the hive.
- (5) Any person who, without reasonable excuse, fails to carry out directions given by an inspector under subsection (2) or (3) within the specified period is guilty of an offence and liable on conviction to a penalty not exceeding 5 penalty units.

### **15 Beehives to be identified**

- (1) Within the prescribed period after a registration number is allocated to a beekeeper under section 8, the beekeeper shall, in accordance with subsection (2):
  - (a) cause that number to be displayed on the broodbox of each beehive that is kept by the beekeeper, and
  - (b) cause any previous registration number displayed on that broodbox to be struck out but not so that that previous number is obliterated,and thereafter so long as the beekeeper keeps the hive, or another person keeps the hive on behalf of the beekeeper, the beekeeper shall ensure that the number displayed under paragraph (a) continues to be displayed on the broodbox of each such hive in accordance with subsection (2).
- (2) Every letter and number of a registration number displayed on the broodbox of a beehive as required by subsection (1) (a) shall:
  - (a) be clearly legible, and
  - (b) be displayed on the outside wall of the broodbox, and
  - (c) comply with such other requirements as may be prescribed.
- (3) A registered beekeeper who, without reasonable excuse, fails to comply with subsection (1) is guilty of an offence and liable on conviction to a penalty not exceeding 10 penalty units.

### **15A Forfeiture of beehives in certain cases**

- (1) **Unidentified beehives on public land** An inspector may seize and remove any beehive that is on public land and is not identified.

- (2) Subsection (1) applies even if the period prescribed for the purposes of section 15 (1) has not expired in relation to the hive.
- (3) A hive seized under subsection (1) is immediately forfeited to the Crown.
- (4) **Identified beehives on public land** If an inspector is satisfied that an identified beehive is on public land without the permission of the controller of the land, the inspector may serve a notice on the owner of the hive:
  - (a) requiring the owner, at the owner's option, either:
    - (i) to provide the inspector with evidence satisfactory to the inspector that the owner has obtained the permission of the controller of the land, or
    - (ii) to cause the hive to be removed,  
within 14 days after service of the notice, and
  - (b) informing the owner that, if the requirement is not complied with within that time, the hive will be forfeited to the Crown.
- (5) If the requirement is not complied with within the 14-day period, the hive is forfeited to the Crown and an inspector may seize and remove it.
- (6) **Unidentified beehives on private land** Any beehive that is on land other than public land and is not identified is forfeited to the Crown and may be seized and removed by an inspector if:
  - (a) for a period of 28 consecutive days there has been displayed in the immediate vicinity of the hive a notice complying with subsection (7), and
  - (b) a notice to similar effect has appeared, in a newspaper circulating generally in the State, at least once during the first 14 days of the 28-day period (or in such other publications, or at such other times, or both, as the regulations may prescribe),  
and the hive is not identified by the date specified in the notice or before the expiry of the period specified in section 15 (1) (as the case may require).
- (7) The notice must state that the beehive will be forfeited to the Crown unless, by the date specified in the notice (being a date that is at least 28 days after the notice is first displayed in the immediate vicinity of the hive), the owner of the hive either causes the hive to be identified or:
  - (a) provides evidence satisfactory to an inspector that the period specified in section 15 (1) has not expired in relation to the hive, and
  - (b) subsequently causes the hive to be identified before the expiry of that period or the expiry of the date specified in the notice (whichever is the later).

- (8) **Forfeited beehives** A beehive forfeited under this section is to be dealt with as the Director-General directs.
- (9) **Expenses** Any reasonable expenses incurred by an inspector or the Director-General in respect of a beehive forfeited under this section are payable by the owner of the hive (if the owner can be identified) and are recoverable from the owner in a court of competent jurisdiction as a debt due to the Crown.
- (10) **No compensation** No compensation is payable in respect of any beehive that is forfeited under this section.

(11) **Definitions** In this section:

**controller**, in relation to public land, means the following:

- (a) if the land is reserved or dedicated for any public use or purpose—the trustee or trustees of the land,
- (b) if the land consists of a public road—the roads authority for that road within the meaning of the [Roads Act 1993](#),
- (c) if the land consists of a travelling stock reserve—the responsible board within the meaning of Part 8 of the [Rural Lands Protection Act 1998](#),
- (d) in any other case—the person having the care, control and management of the land.

**identified**, in relation to a beehive, means identified as required by section 15.

**public land** means:

- (a) Crown land within the meaning of the [Crown Lands Act 1989](#), or
- (b) State forest, or
- (c) land under the control and management of a public or local authority,

but does not include:

- (d) any land (other than State forest) that is occupied under any lease or other arrangement for private purposes that confers a right to exclusive possession of the land, or
- (e) any land leased under the [Western Lands Act 1901](#).

## **16 Access to beehives to be kept clear**

- (1) A beekeeper shall at all times keep the normal access to a beehive which is kept by the beekeeper clear from obstructions which would prevent or impede the inspection of the beehive by an inspector.

- (2) If a beekeeper fails to comply with subsection (1), an inspector may direct the beekeeper to comply with that subsection within a specified period.
- (3) If a beekeeper fails to comply with any directions of an inspector given under subsection (2) within the specified period, an inspector or a person authorised in writing by an inspector may enter on to the land on which the hive is located and carry out such work as will cause subsection (1) to be complied with.
- (4) Any beekeeper who, without reasonable excuse, fails to comply with subsection (1) is guilty of an offence and liable on conviction to a penalty not exceeding 5 penalty units.

### **17 Abandoned or neglected bees or associated things**

- (1) Where an inspector is satisfied on reasonable grounds that any bees, beehives, apiary products or appliances within an apiary are abandoned or neglected, the inspector:
  - (a) in the case of an apiary which appears to the inspector to be kept by a registered beekeeper:
    - (i) if the beekeeper can be located within the prescribed time, may direct the beekeeper to take within a period specified in the notice such measures as are so specified (being measures which, in the opinion of the inspector, are necessary to put into order or to dispose of the bees, beehives, products or appliances), or
    - (ii) if the beekeeper cannot be located within the prescribed time or fails to comply with a direction given under subparagraph (i) within the specified period, may seize the bees, beehives, products or appliances and dispose of them in the prescribed manner, or
  - (b) in the case of an apiary which appears to the inspector to be kept by a person who is not a registered beekeeper, may seize the bees, beehives, products or appliances and dispose of them in the prescribed manner.
- (2) A person who, without reasonable excuse, fails to comply with a direction given under subsection (1) (a) (i) is guilty of an offence and liable on conviction to a penalty not exceeding 10 penalty units.

### **18 Power of Director-General to restrict beekeeping on certain premises**

- (1) If at any time the Director-General is satisfied on reasonable grounds that, in relation to particular premises on which an apiary is being maintained:
  - (a) a provision of this Act is being persistently contravened or not complied with,
  - (b) the keeping of bees or a number of beehives on those premises is a public nuisance or a danger to public health or public safety, or

- (c) for any other specified reason those premises are unsuitable for beekeeping, the Director-General may, by order:
- (d) prohibit:
- (i) the keeping of bees on those premises, or
  - (ii) the keeping of more than a specified number of beehives on those premises, after such date as may be specified in the order (being a date not earlier than 14 days after the date of service of the order), and
- (e) direct that, not later than that date, the person who is maintaining the apiary or, if no person is maintaining the apiary, the person who established it:
- (i) remove the apiary, or
  - (ii) remove the number of beehives kept on those premises in excess of the maximum number of beehives specified under paragraph (d),
- from those premises.
- (2) If at any time the Director-General is satisfied on reasonable grounds that an apiary is about to be or may be established on particular premises and that:
- (a) the keeping of bees on those premises would be a public nuisance or a danger to public health or public safety, or
  - (b) for any other specified reason those premises would be unsuitable for beekeeping,
- the Director-General may, by order, prohibit the keeping of bees and the establishment of an apiary on those premises.
- (3) An order under subsection (1) or (2) is not effective unless it has been served on the occupier of the premises concerned and, where the occupier of those premises is not the person who maintains or established or, as the case may be, is about to or may establish an apiary on those premises, a copy of the order has been served on that person.
- (4) An order under subsection (1) does not take effect until the date on which the prohibition specified in the order is to take effect.
- (5) An order under subsection (1) or (2) shall, unless set aside following an application under section 35 (2), remain in force until it is revoked by the Director-General by a further order.
- (6) A person shall not continue to maintain or, as the case may be, shall not establish an apiary in contravention of an order in force under subsection (1) or (2) and, where an



order under subsection (1) contains a direction referred to in paragraph (e) of that subsection, shall not fail to comply with that direction before the date specified in the order for compliance.

Maximum penalty: 20 penalty units.

(6A) The occupier of any premises is taken not to contravene an order under subsection (1) (d) if the occupier satisfies the Director-General that the occupier:

- (a) does not own any beehives on the premises, and
- (b) has not given permission for the beehives (or for beehives in excess of the number specified in the order) to be kept on the premises.

(6B) In such a case, the occupier must, at the request of the Director-General or an inspector, provide to the Director-General or the inspector (as the case may be) such information (if any) as the occupier possesses as to the identity and residential address of the owner of the beehives concerned.

Maximum penalty: 20 penalty units.

(7) If the Director-General is satisfied that:

- (a) a person has failed to comply with a direction contained in an order under subsection (1) to remove an apiary from particular premises, or
- (b) a person has removed the apiary concerned from particular premises in purported compliance with such a direction to other premises in respect of which an order under subsection (1) or (2) is in force,

the Director-General may direct an inspector to remove the apiary from those premises to premises selected by the inspector on which it is lawful to establish an apiary or, if such premises are not available, to destroy or otherwise dispose of the apiary in such manner as the inspector considers appropriate, and on any such direction being given to the inspector, it is the duty of the inspector to comply with the direction.

(8) A direction under subsection (7) may be varied or revoked by the Director-General at any time before it is implemented.

(9) If an order is in force under subsection (1) or (2) prohibiting the keeping of bees, or the keeping of more than a specified number of beehives, on any premises, the occupier of those premises must not grant permission to any person to keep bees or to keep more than the specified number of beehives (as the case may be) on those premises.

Maximum penalty: 20 penalty units.

### **18A Power of inspectors to relocate beehives in emergency**

- (1) If an inspector is satisfied on reasonable grounds that the keeping of bees on particular premises is such a danger to public health or public safety as to warrant the immediate removal of the beehives from the premises concerned (***the old premises***), the inspector may:
  - (a) without notice, cause the beehives to be removed and relocated to such place (***the new premises***) as the inspector thinks fit, and
  - (b) request the Director-General (subject to the Director-General's being satisfied as referred to in section 18 (1) (b)), to prohibit, by order under section 18 (1) (d) (i) (***a prohibition order***), the keeping of bees on the old premises.
- (2) The beehives are to be returned to the old premises at the expiry of a period of 21 days after they were removed, unless a prohibition order is served during that period.
- (3) If a prohibition order is served during that period:
  - (a) the order takes effect immediately on service (despite section 18), and
  - (b) the beehives are not to be returned to the old premises unless the final determination of any application made under section 35 (2) in respect of the order is to the effect that they should be returned.
- (4) However, the owner of the beehives may, at any time, move the beehives to other premises approved by the Director-General.
- (5) An inspector may be satisfied under subsection (1), and the Director-General may be satisfied under section 18 (1) (b), even if the danger is to one person only, and even if the danger arises because of that person's allergy or particular susceptibility to bee venom.
- (6) No compensation is payable in respect of any beehive that is relocated under this section.

### **19 Power to prohibit the keeping of bees in specified areas**

- (1) In any case where the Governor is of the opinion that the keeping of bees in any specified area of New South Wales is or would be harmful to the drying of fruit of any kind, the Governor may, by order, prohibit, either absolutely or subject to such exceptions as may be specified in the order, the keeping of bees within that area of New South Wales.
- (2) Exceptions specified in an order under subsection (1) may be made subject to such conditions as may be so specified.
- (3) An order under subsection (1) may provide that it is to continue in force for a specified

period or specified periods, but no such order shall take effect before the expiration of 14 days after the date on which it is published in the Gazette.

(4) Where an order under subsection (1) is in force, any person who:

- (a) keeps bees in contravention of the provisions of the order, or
- (b) fails to comply with any condition subject to which an exception specified in the order is made,

is guilty of an offence and liable on conviction to a penalty not exceeding 10 penalty units.

(5) Where an order made under subsection (1) is in force in respect of an area and an inspector believes on reasonable grounds that bees are being kept on premises within the area in contravention of a prohibition specified in the order or that conditions imposed under subsection (2) with respect to the keeping of bees within the area are not being complied with:

- (a) the inspector may direct the person who is maintaining the apiary or, where that person cannot be found within the vicinity of the apiary, the occupier of the premises, to remove the apiary forthwith to a place outside that area or, if that person or occupier is unwilling to take that course of action, to destroy the apiary or to dispose of it in some other manner determined by the inspector, and
- (b) if that person or occupier refuses or fails to comply with a direction given under paragraph (a), the inspector may remove the apiary from those premises to other premises, selected by the inspector, outside that area or, if the inspector considers that course of action impracticable or unduly onerous, the inspector may destroy or dispose of it in the prescribed manner or, if no manner is prescribed, in such manner as the inspector considers appropriate.

## **20 Honey not to be exposed**

(1) Where honey, or any bee comb or appliance in or on which honey is deposited, is in the possession or under the control of a person, the person shall ensure that the honey, bee comb or appliance does not remain exposed in a manner or under conditions which would provide robber bees with access to the honey.

(2) If any person to whom subsection (1) applies fails to comply with that subsection, that person is guilty of an offence and liable on conviction to a penalty not exceeding 10 penalty units.

## **Division 2 Disease control**

### **21 Infected bees etc not to be kept or sold**

A beekeeper shall not:

- (a) otherwise than in accordance with the directions of an inspector as to the steps to be taken to treat or eradicate the disease, keep or allow to remain on any land any bees, beehives, apiary products or appliances known by the beekeeper to be infected with, or to be liable to spread, a prescribed disease among bees, or
- (b) sell or, otherwise than in a manner directed in writing by an inspector, dispose of any bees, beehives, apiary products or appliances from an apiary known by the beekeeper to be infected with, or to be liable to spread, such a disease.

Maximum penalty: 20 penalty units.

## **22 Beekeepers to notify disease**

- (1) Subject to subsection (2), a beekeeper shall, within the period of 24 hours after first becoming aware or first suspecting that any bees, beehives, apiary products or appliances in the beekeeper's possession or under the beekeeper's control are infected with any notifiable disease, give notice of the existence or suspected existence of that disease to the Director-General or an inspector.
- (2) Subsection (1) does not apply in relation to a notifiable disease where an order under subsection (4) is for the time being in force to the effect that notification of that disease is not required under subsection (1).
- (3) Any beekeeper who fails to comply with subsection (1) is guilty of an offence and liable on conviction to a penalty not exceeding 20 penalty units.
- (4) The Governor may make orders for the purpose of subsection (2).

## **23 Declaration of infected areas**

- (1) The Minister, on being satisfied on reasonable grounds that a notifiable disease is present or is suspected to be present within a particular area, may, by order:
  - (a) define the boundaries of the area,
  - (b) declare the area to be an infected area,
  - (c) prohibit, either absolutely or subject to such exceptions as may be specified in the order, bees, beehives, apiary products and appliances, or any of them, from being brought or sent into, and from being taken or sent out of, the area while the order remains in force, and
  - (d) where a prohibition specified in the order is made subject to specified exceptions, impose such conditions or restrictions with respect to those exceptions as the Minister thinks are necessary in order to eradicate or reduce the presence of the disease within the area or to prevent or restrict its spread outside the area.
- (2) An order made under subsection (1) shall continue in force for such period (not

exceeding 3 months) as may be specified in the order.

- (3) If, before the expiry of an order made under subsection (1) or renewed under this subsection, the Minister is satisfied on reasonable grounds that the continuance of the order is justified, the Minister may, by further order, renew the first-mentioned order for such further period (not exceeding 3 months) as may be specified in the further order, and, if the Minister thinks it necessary to do so may, by that further order, vary the provisions of the first-mentioned order and may so vary the provisions of that order whether or not they have previously been varied under this subsection.
- (4) Notwithstanding section 48, an order made under subsection (1), or the renewal of an order under subsection (3) by a further order, does not have effect until it is published in a newspaper circulating generally in the infected area, is published in the Gazette or is publicly notified to the inhabitants of the area in some other way determined by the Minister.
- (5) An order under this section declaring an area to be an infected area may include an area adjacent to the area in which a prescribed disease is prevalent or is suspected to be prevalent notwithstanding that the disease is neither actually prevalent nor suspected to be prevalent in that adjacent area.
- (6) Where an order under this section declaring an area to be an infected area is in force, any person in or about to enter the area who:
  - (a) contravenes a prohibition specified in the order, or
  - (b) fails to comply with a condition or restriction subject to which an exception specified in the order is made,is guilty of an offence and liable on conviction to a penalty not exceeding 20 penalty units.
- (7) Where an inspector suspects on reasonable grounds:
  - (a) that bees, beehives, apiary products or appliances:
    - (i) are being or have been brought or sent into an infected area, or
    - (ii) are being or have been taken or sent out of such an area,in contravention of any provision of an order in force under this section, or
  - (b) that any condition or restriction subject to which an exception specified in the order is made has not been complied with in relation to any bees, beehives, apiary products or appliances,the inspector or another inspector may seize and detain those bees, beehives, apiary products or appliances pending their disposal under this Act.

(8) Where an inspector suspects on reasonable grounds:

(a) that bees, beehives, apiary products or appliances:

(i) are about to be brought or sent into an infected area, or

(ii) are about to be taken or sent out of such an area,

in contravention of any provision of an order in force under this section, or

(b) that any condition or restriction subject to which an exception specified in the order is made is not being or has not been complied with in relation to any bees, beehives, apiary products or appliances,

the inspector or another inspector may direct the person in charge of those bees, beehives, apiary products or appliances not to bring or send them into or, as the case may be, not to take or send them out of the area, or to comply with such condition or restriction, and, where any such direction is given to a person, the person shall comply with it forthwith.

(9) Where a direction given by an inspector under subsection (8) is not complied with forthwith, the inspector or another inspector may seize and detain the bees, beehives, apiary products or appliances to which the direction relates pending their disposal under this Act.

(10) Any person who fails to comply with a direction given by an inspector under subsection (8) is guilty of an offence and liable on conviction to a penalty not exceeding 20 penalty units.

#### **24 Powers of inspectors with respect to infected bees etc**

(1) Where, on inspecting premises on which bees are kept, an inspector is satisfied on reasonable grounds that any bees, beehives, apiary products or appliances on those premises are infected with a notifiable disease and are thereby a source of immediate danger to other bees, whether kept on those premises or elsewhere, the inspector:

(a) may direct the beekeeper concerned to cause the bees to be destroyed or, as the case may be, the beehives, apiary products or appliances to be destroyed or irradiated, forthwith or within such period as the inspector specifies, or

(b) may, either forthwith or after giving a direction under paragraph (a) that is not complied with, destroy those bees or cause them to be destroyed or, as the case may be, destroy or irradiate those beehives, apiary products or appliances or cause them to be destroyed or irradiated.

(2) Where, on inspecting premises on which bees are kept, it appears to an inspector that any bees, beehives, apiary products or appliances on the premises:

- (a) are infected with a notifiable disease, or
- (b) are liable to spread such a disease,

but are not an immediate source of danger to other bees, the inspector may direct the beekeeper concerned to treat the bees, beehives, apiary products or appliances, or to take other specified measures, in such manner and within such period as the inspector specifies in the direction.

- (3) If a beekeeper fails, within the specified period, to comply with a direction given by an inspector under subsection (2), the inspector or another inspector may treat the bees, beehives, apiary products or appliances or take such other measures in respect of them as were specified in the direction.
- (4) Where an inspector gives a direction under subsection (1) (a) or (2), the inspector shall make an inventory of the bees, beehives, apiary products and appliances to which the direction relates.
- (5) Where an inspector gives a direction under subsection (2) in relation to particular premises, the inspector may give the beekeeper concerned a further direction to the effect:
  - (a) that the bees, beehives, apiary products and appliances to which the first-mentioned direction relates shall not be sold or otherwise disposed of, or shall not be removed from, those premises, or
  - (b) that no bees, beehives, apiary products or appliances shall be taken on to the premises,for such period (being a period not exceeding 3 months) as may be specified in the further direction, except with the consent in writing of the inspector or of another inspector, or may give a further direction to both of those effects.
- (6) An inspector may, if it appears to the inspector to be necessary to do so in order to prevent the spread of a notifiable disease or to restrict it to the area where it is already prevalent, renew a further direction given under subsection (5), or previously renewed under this subsection, for a further period not exceeding 3 months.
- (7) If any person to whom a direction is given under this section fails to comply with the direction, that person is guilty of an offence and liable on conviction to a penalty not exceeding 20 penalty units.
- (8) Where an inspector:
  - (a) suspects on reasonable grounds that a person is contravening, or is about to contravene, a direction given under subsection (5), or
  - (b) finds bees, beehives, apiary products or appliances which the inspector suspects

on reasonable grounds to have been sold, disposed of or removed in contravention of such a direction,

the inspector may seize and detain the bees, beehives, apiary products or appliances concerned pending their disposal under this Act.

- (9) An inspector may give such ancillary directions as may be necessary for the purpose of enabling the inspector to exercise a power conferred by this section.

#### **24A Power to order tests**

- (1) An inspector may:
- (a) cause any bees, beehives, appliances or apiary products to be tested for any disease or residue or take from any bees, beehives, appliances or apiary products a specimen of any kind, or
  - (b) order the owner or person in charge of bees, beehives, appliances or apiary products to cause the bees, beehives, appliances or apiary products to be tested for any disease or residue within a specified time and in a manner approved by the Director-General.
- (2) An order may be given under subsection (1) (b) whether or not the bees, beehives, appliances or apiary products have previously been tested.
- (3) A person who fails to comply with an order under subsection (1) (b) is guilty of an offence.

Maximum penalty: 20 penalty units.

#### **25 Restriction on introduction of bees into New South Wales**

- (1) Subject to subsection (6), a person shall not bring or cause to be brought into New South Wales from another State, or a Territory, of the Commonwealth or from any place outside Australia any bees, beehives, apiary products or appliances unless they are accompanied by a certificate in writing under the hand of any prescribed officer of that State, Territory or place to the effect that the bees, beehives, apiary products or appliances are free of all prescribed diseases and have not emanated from or been in an area in which a prescribed disease is present.

Maximum penalty: 20 penalty units.

- (2) Where an inspector suspects on reasonable grounds that:
- (a) bees, beehives, apiary products or appliances are being or have been brought into New South Wales in contravention of subsection (1),
  - (b) a certificate which is accompanying or accompanied bees, beehives, apiary products or appliances that are being or have been brought into New South Wales,



although purporting to be a certificate of the kind referred to in subsection (1), is or was forged or is or was false or misleading in a material respect, or

- (c) bees, beehives, apiary products or appliances that are being or have been brought into New South Wales are, although accompanied by a certificate of the kind referred to in subsection (1), infected with a prescribed disease,

the inspector or another inspector:

- (d) may, in the case of bees, beehives, apiary products or appliances referred to in paragraph (a), (b) or (c) that are being brought into New South Wales, refuse to allow the person in charge of the bees, beehives, apiary products or appliances to bring them into New South Wales and require that person to remove them to some place outside New South Wales, or
- (e) may, in the case of bees, beehives, apiary products or appliances referred to in paragraph (a), (b) or (c) (whether they are being or have been brought into New South Wales), seize and detain the bees, beehives, apiary products or appliances pending their disposal under this Act,

and, where a requirement is made to a person under paragraph (d), the person shall comply with the requirement forthwith.

(3) Where an inspector suspects on reasonable grounds that:

- (a) bees, beehives, apiary products or appliances are about to be brought into New South Wales in contravention of subsection (1),
- (b) a certificate which is accompanying bees, beehives, apiary products or appliances that are about to be brought into New South Wales, although purporting to be a certificate of the kind referred to in subsection (1), is forged or is false or misleading in a material respect, or
- (c) bees, beehives, apiary products or appliances that are about to be brought into New South Wales are, although accompanied by a certificate of the kind referred to in subsection (1), infected with a notifiable disease,

the inspector or another inspector may refuse to allow the person in charge of the bees, beehives, apiary products or appliances to bring them into New South Wales and require that person to remove them to some other place outside New South Wales and, where any such requirement is made of a person, that person shall comply with the requirement forthwith.

(4) Where bees, beehives, apiary products or appliances have been seized under subsection (2) because they were not accompanied by a certificate of the kind referred to in subsection (1) and a certificate of that kind is produced to an inspector within the period prescribed for the purposes of this subsection, the inspector may

release those bees, beehives, apiary products or appliances to such person as appears to the inspector to be their owner or to be entitled to possession of them.

- (5) Any person who fails to comply with a requirement made under subsection (2) or (3) is guilty of an offence and liable on conviction to a penalty not exceeding 10 penalty units.
- (6) If there is for the time being in force under section 26 an order prohibiting, whether absolutely or subject to exceptions, the importation into New South Wales or any specified area of New South Wales of bees, beehives, apiary products or appliances, or bees, beehives, apiary products or appliances of any specified class or description, nothing in this section shall be construed as authorising the importation or bringing into New South Wales or that specified area of bees, beehives, apiary products or appliances, or of bees, beehives, apiary products or appliances of that class or description, notwithstanding that those bees, beehives, apiary products or appliances are accompanied by a certificate of the kind referred to in subsection (1).

## **26 Prohibition of importation of bees etc**

- (1) The Minister may, from time to time by order, prohibit, either absolutely or subject to such exceptions as are specified in the order:
  - (a) the importation into New South Wales or into any specified area of New South Wales, either generally or from any other specified State, or specified Territory, of the Commonwealth or from any other specified place, or
  - (b) the bringing into a specified area of New South Wales from any other such area, of any bees, beehives, apiary products or appliances, or bees, beehives, apiary products or appliances of a specified class or description, or other things of any kind whatever which in the Minister's opinion are likely to result in the introduction of any notifiable disease into New South Wales or into any specified part of New South Wales or are likely to result in the spreading of that disease.
- (2) Exceptions specified in an order under subsection (1) may be made subject to such conditions or restrictions as may be so specified.
- (3) Where an inspector suspects on reasonable grounds:
  - (a) that bees, beehives, apiary products or appliances:
    - (i) are being or have been imported into New South Wales, or into a specified area of New South Wales, or
    - (ii) are being or have been brought into a specified area of New South Wales from another such area,

in contravention of an order in force under subsection (1), or

(b) that any condition or restriction subject to which an exception specified in the order is made is not being or has not been complied with,

the inspector may seize and detain those bees, beehives, apiary products or appliances pending their disposal under this Act.

(4) Where an inspector suspects on reasonable grounds:

(a) that bees, beehives, apiary products or appliances:

(i) are about to be imported into New South Wales, or into a specified area of New South Wales, or

(ii) are about to be brought into a specified area of New South Wales from another such area,

in contravention of an order in force under subsection (1), or

(b) that any condition or restriction subject to which an exception specified in the order is made is not being or has not been complied with,

the inspector may refuse to allow the person in charge of the bees, beehives, apiary products or appliances to import them into New South Wales or to import or bring them into that specified part of New South Wales, as the case may be, and require that person to remove them to some other place outside New South Wales or, as the case may be, to some other place outside that specified area.

(5) A person who:

(a) contravenes a prohibition specified in an order in force under subsection (1), or

(b) fails to comply with a condition or restriction subject to which an exception specified in the order is made,

is guilty of an offence and liable on conviction to a penalty not exceeding 20 penalty units.

(6) A person who fails to comply with a requirement made under subsection (4) is guilty of an offence and liable on conviction to a penalty not exceeding 10 penalty units.

## **27 Establishment of quarantine areas**

(1) The Minister may from time to time, by notice published in the Gazette:

(a) declare any specified Crown land in New South Wales to be a quarantine area for the detention of quarantined bees, beehives, apiary products and appliances, and

(b) subject to subsection (2), declare any specified land adjacent to a quarantine area to be a prohibited zone in which bees may not be kept,

and may, in a similar manner, vary, redefine or abolish any such quarantine area or prohibited zone.

- (2) Land may not be declared to be part of a prohibited zone under subsection (1) if it is situated more than 5 kilometres from the boundary of a quarantine area.
- (3) The Minister may from time to time give directions with respect to the control of quarantine areas or any specified quarantine area and with respect to the control, treatment and disposal of bees, beehives, apiary products and appliances kept in quarantine, and may specify the time during which bees, beehives, apiary products or appliances introduced or intended to be introduced into New South Wales shall remain in quarantine.
- (4) A person (other than the Minister, the Director-General or an inspector) shall not enter a quarantine area declared in accordance with subsection (1) without the authority of the Minister, the Director-General or an inspector.

Maximum penalty: 10 penalty units.

- (5) A person shall not keep bees within a prohibited zone declared in accordance with subsection (1).

Maximum penalty: 10 penalty units.

## **Part 5 Compensation for loss of bees etc**

### **28 Payment of compensation**

- (1) Where any queen bees that have become infected with a compensatable disease are destroyed under section 24, or pursuant to a direction under that section, or any beehives or appliances that have become so infected are destroyed or irradiated under that section, or pursuant to such a direction, compensation is, subject to subsection (2) and section 30, payable as provided by this Part to the owner of the bees, beehives or appliances.
- (2) Compensation is not payable under this Part in respect of queen bees, beehives or appliances:
  - (a) where the bees, beehives or appliances were imported or brought into New South Wales in contravention of a provision of this Act, the repealed Act or the [Quarantine Act 1908](#) of the Commonwealth, or of a prohibition imposed under any of those Acts,
  - (b) where the bees, beehives or appliances were acquired by the claimant when the claimant knew, or had reasonable cause to suspect, that the bees, beehives or appliances were infected with a compensatable disease at the time of acquisition,
  - (c) where the claimant was not immediately before the destruction of, or the direction

to destroy, the bees, or, as the case may be, immediately before the destruction or irradiation, or the direction to destroy or irradiate, of the beehives or appliances, registered as a beekeeper,

- (d) where the claimant has failed to comply with the requirements of section 22 with respect to the bees, beehives or appliances, or
- (e) where the claimant has, through the claimant's own deliberate, reckless or negligent conduct, caused or contributed to the bees, beehives or appliances becoming infected with the disease which rendered it necessary to destroy, or direct the destruction of, the bees or, as the case may be, rendered it necessary to destroy or irradiate, or direct the destruction or irradiation of, the beehives or appliances.

## **29 Persons to whom compensation is payable**

- (1) Where compensation is payable under this Part, that compensation shall:
  - (a) where there is only one owner of the queen bees, beehives or appliances in respect of which the compensation is payable—be paid to that owner, or
  - (b) where there is more than one owner of the queen bees, beehives or appliances—be paid to those owners jointly.

- (2) In subsection (1), a reference to the owner in relation to:

- (a) queen bees that have been destroyed, or
- (b) beehives or appliances that have been destroyed or irradiated,

is a reference to a person who has, or a partnership which had, an interest in the bees at the time of their destruction or of the direction to destroy them or in those beehives or appliances at the time of their destruction or irradiation or of the direction to destroy or irradiate them, but does not include a reference to the holder of a mortgage, charge or lien over those bees, beehives or appliances who did not have possession of them at that time.

## **30 Claims**

- (1) Compensation is not payable under this Part in respect of any queen bees that have been destroyed or irradiated unless a claim for compensation is made within 60 days after the destruction or irradiation.
- (1A) A claim under this section:
  - (a) must be in an approved form, and
  - (b) must be verified as provided in the form, and

(c) must be lodged at an office of the Department.

- (2) Notwithstanding subsection (1), where a claim for compensation is made after the expiration of the period of 60 days referred to in that subsection, the Minister may authorise the payment of the whole or any part of the compensation which would have been payable had the claim been made during that period if the Minister is satisfied that reasonable grounds existed for the delay in making the claim.

### **31 Basis of compensation**

- (1) Subject to section 32, where compensation is payable under this Part, the amount of that compensation shall:
- (a) in the case of queen bees that have been destroyed—be the prescribed proportion of the market value, at the time of the destruction of those bees, of an equivalent number of healthy untested queen bees,
  - (b) in the case of beehives or appliances that have been destroyed—be the prescribed proportion of an amount equivalent to the cost of purchasing materials for the construction of replacement beehives or appliances, and
  - (c) in the case of beehives or appliances that have been irradiated—be the prescribed proportion of an amount equivalent to the cost of having the beehives or appliances irradiated.
- (2) In determining the compensation to be paid under this Part, no allowance shall be made for loss of profit, loss resulting from any breach of contract, loss of production or any other consequential loss whatever.
- (3) In determining the compensation to be paid under this Part in respect of beehives or appliances that have been irradiated, no allowance shall be made in respect of the cost of transporting those beehives or appliances to or from the place at which the irradiation was carried out.

### **32 Compensation limited**

- (1) No compensation, other than compensation payable under this Part, is payable by the Crown for or in respect of any queen bees, beehives or appliances referred to in section 28 (1).
- (2) No compensation is payable under any other Act for or in respect of any bees, beehives or appliances for or in respect of which compensation is payable under this Part.
- (3) Nothing in this Part limits the amount of compensation that is recoverable by a person in respect of the destruction of bees, or in respect of the destruction or irradiation of beehives, apiary products or appliances, where it is established that the bees were destroyed, or the beehives, apiary products or appliances were destroyed or

irradiated, by or on the instruction of an inspector who had no reasonable grounds for destroying or irradiating them or giving instructions for their destruction or irradiation.

### **32A Determination of compensation**

- (1) The Director-General is to determine, in accordance with this Part:
  - (a) whether compensation is payable under this Part to a particular owner of bees, beehives or appliances, and
  - (b) the amount of any such compensation.
- (2) For the purposes of determining any such compensation, the Director-General is also to determine any market values or costs required to be determined for the purposes of section 31 (1).

### **33 Compensation payable under this Part to be a fixed charge on the Consolidated Fund**

The amount of any compensation payable under this Part is a charge on the Consolidated Fund and is payable out of that Fund without further appropriation than this section.

### **34 Offences under Part 5**

- (1) Any person who:
  - (a) with intent to mislead or defraud the Crown for the purpose of obtaining compensation for that or any other person, makes a statement which is to the knowledge of that person false or misleading in a material respect, or
  - (b) practises or is concerned in any fraudulent act for that purpose,is guilty of an offence and liable on conviction to a penalty not exceeding 20 penalty units or to imprisonment for a term not exceeding 12 months, or to both.
- (2) Any person who buys or sells queen bees, beehives or appliances knowing or having reasonable cause to suspect that the bees, beehives or appliances are infected with a compensatable disease and with the intention of making a claim for compensation under this Part in respect of the destruction of the bees or, as the case may be, the destruction or irradiation of the beehives or appliances is guilty of an offence and liable on conviction to a penalty not exceeding 20 penalty units or to imprisonment for a term not exceeding 12 months, or to both.

## **Part 6 Reviews by the Administrative Decisions Tribunal**

### **35 Applications for review**

- (1) A person aggrieved by any of the following decisions may apply to the Administrative Decisions Tribunal for a review of the decision:

- (a) a decision of the Director-General in refusing an application by that person for registration as a beekeeper,
  - (b) a decision of the Director-General in refusing an application for the renewal of that person's registration as a beekeeper,
  - (c) a decision of the Director-General under section 12 (3) or (4) to cancel that person's registration,
  - (d) a decision of the Director-General under section 12 (3) or (5) declaring that person to be disqualified from being a director of a corporation that is a registered beekeeper,
  - (e) any direction given or action taken by an inspector under section 17 or 24 (5) or (6),
  - (f) the action of an inspector in seizing and detaining bees, beehives, apiary products or appliances under a provision of Division 2 of Part 4, and seeking the return of those bees, beehives, apiary products or appliances,
  - (g) the action of an inspector under section 25 refusing to allow bees, beehives, apiary products or appliances to be brought into New South Wales,
  - (h) in relation to Part 5:
    - (i) a decision of the Director-General to refuse a claim for compensation under Part 5,
    - (ii) a decision of the Director-General to award compensation under that Part on the ground that the amount of compensation awarded is inadequate,
    - (iii) a determination of the market value of any queen bees made for the purpose of section 31 (1) on the ground that that value is less than the true market value of the bees.
- (2) A person who is the occupier of, or otherwise has an interest in, premises in respect of which the Director-General has made an order under section 18 who is aggrieved by that order may apply to the Administrative Decisions Tribunal for a review of that order.

**Note—**

Generally, the making of an application to the Administrative Decisions Tribunal under this section will not affect the operation of the decision concerned (or prevent the taking of action to implement the decision) pending the review of the decision. However, the Tribunal can make orders staying or otherwise affecting the operation of the decision, but only on the application of a party to the proceedings and only if the Tribunal considers it desirable to do so after taking various matters (such as the public interest) into account. See section 60 of the [Administrative Decisions Tribunal Act 1997](#).



**36, 37 (Repealed)**

**Part 7 Enforcement**

**38 General powers of inspection**

(1) An inspector may, for the purposes of exercising any function imposed or conferred on inspectors by any other provision of this Act, enter any premises on which the inspector believes on reasonable grounds that any bees, beehives or appliances are kept or any apiary products are produced, kept or sold and inspect those premises and any bees, beehives, apiary products or appliances kept there.

(1A) The inspector may enter premises with such persons, vehicles and equipment as the inspector considers are necessary to enable or assist the inspector to exercise the function concerned.

(1B) An inspector who enters premises under subsection (1) may:

- (a) require the person apparently in charge of the premises, or of any activity connected with beekeeping that is carried on at the premises, to produce any records or documents under the person's control that relate to beekeeping, and
- (b) make copies of, or take extracts from, the records or documents so produced (and, for that purpose, remove and retain the records and documents for such period as is reasonably necessary).

(2) At any place on or near:

- (a) the boundary of New South Wales,
- (b) where an order is in force under section 23 (1) declaring an area to be an infected area—the boundary of that area,
- (c) where an order is in force under section 26 (1) prohibiting bees, beehives, apiary products or appliances from being imported or brought into any specified area of New South Wales—the boundary of that specified area, or
- (d) where specified land is for the time being declared under section 27 (1) to be a quarantine area—the boundary of that area,

an inspector may display a traffic sign of an approved kind so as to be clearly visible to the driver or person in charge of any vehicle approaching that place or may signal to the driver or person in charge of any such vehicle that the driver or person is required to cause the vehicle to stop.

(3) In subsection (2), a reference to a place includes any kind of thoroughfare whether public or not.

- (4) Whenever the driver or person in charge of a vehicle approaches a sign displayed in accordance with subsection (2) or an inspector by any other means signals to any such driver or person to cause the vehicle to stop, that driver or person shall cause the vehicle to stop within a reasonable distance of the sign or the inspector and shall ensure that the vehicle remains stationary so that the inspector may exercise in respect of the vehicle the inspector's powers.
- (5) Any person who fails to comply with subsection (4) is guilty of an offence and liable on conviction to a penalty not exceeding 10 penalty units.
- (6) Where by virtue of a provision of this Act an inspector has power to seize or detain bees, beehives, apiary products or appliances in any specified circumstances and an inspector suspects on reasonable grounds that a package found in those circumstances contains any such bees, beehives, apiary products or appliances, the inspector may open the package for inspection or may require the person in charge of the package to open it for inspection, in which case that person shall comply with that requirement.
- (7) Where an inspector seizes bees, beehives, apiary products or appliances in accordance with a provision of this Act, the inspector shall, except as provided by subsection (8), remove them to a quarantine area or other secure place pending their disposal under this Act.
- (8) If, on seizing any bees, beehives, apiary products or appliances in accordance with a provision of this Act, an inspector forms the opinion on reasonable grounds that they are infected with a prescribed disease to such an extent as to make it necessary to destroy them immediately, the inspector may cause them to be so destroyed.
- (9) If:
  - (a) no application for the review of a seizure of bees, beehives, apiary products or appliances carried out in accordance with a provision of this Act is made under section 35 within the period prescribed by or under the *Administrative Decisions Tribunal Act 1997* for making applications under that section, or
  - (b) such an application is made within that period but is subsequently withdrawn, or
  - (c) such an application is made within that period but, on the hearing of the application, the action of the inspector in seizing those bees, beehives, apiary products or appliances is affirmed,the bees, beehives, apiary products or appliances must:
  - (d) at the expiry of that period, or
  - (e) on the withdrawal of the application, or

(f) on the decision of the Administrative Decisions Tribunal in respect of the application being notified to the applicant,

be forfeited to the Crown and are to be disposed of in such manner as the Director-General thinks fit.

(10) Any person who fails to comply with a requirement made under subsection (1B) (a) or (6) shall be deemed to be guilty of intentionally obstructing or hindering an inspector under section 40.

### **38A Inspector may request assistance**

- (1) An inspector may request the assistance of any police officer if the inspector reasonably believes that the performance of functions conferred on the inspector by or under this Act will be obstructed.
- (2) An inspector may request the assistance of any person he or she believes to be capable of providing assistance in the performance of functions conferred on the inspector by or under this Act.

### **39 Power to require name and place of residence and location of beehives**

- (1) Where an inspector finds a person committing an offence against this Act or finds a person who the inspector suspects on reasonable grounds has committed or attempted to commit such an offence, the inspector may require that person to state that person's name and the address of that person's place of residence and to specify the locations of all apiaries in which bees are kept by or on behalf of that person.
- (2) Any person who:
  - (a) fails to comply with a requirement under subsection (1), or
  - (b) states a name by which that person is not ordinarily known or states an address at which that person is not residing,is guilty of an offence and liable on conviction to a penalty not exceeding 10 penalty units.

### **40 Assault etc of inspector**

Any person who assaults, threatens with violence, intimidates or intentionally obstructs or hinders an inspector who is exercising any of the functions imposed or conferred on inspectors by this Act is guilty of an offence and liable on conviction to a penalty not exceeding 10 penalty units.

### **41 Personation of inspector**

Any person who:

- (a) forges or counterfeits any certificate of authority of an inspector,
  - (b) makes use of any forged, counterfeited or false written evidence of such an authority,
  - (c) personates an inspector named in a certificate of authority of an inspector, or
  - (d) falsely pretends to be such an inspector,
- is guilty of an offence and liable on conviction to a penalty not exceeding 20 penalty units.

#### **42 General provisions with respect to offences**

- (1) Proceedings for an offence against a provision of this Act or the regulations shall be disposed of summarily before a Local Court.
- (1A) Any such proceedings must be commenced not later than 2 years from when the offence was alleged to have been committed.
- (2) Any person who:
  - (a) attempts to commit, or conspires with or incites another person to commit, an offence against a provision of this Act, or
  - (b) aids, abets, counsels or procures the commission of any such offence by another person,may be charged, tried, convicted and punished as if the first-mentioned person had actually done or omitted to do the act or omission that constitutes the offence, and, where any such person is so convicted, that person shall, for all purposes, be deemed to be convicted of an offence against this Act.
- (3) The fact that an inspector or a person acting under the authority or instructions of the Director-General or an inspector has exercised a function, imposed or conferred by or under this Act in relation to any matter concerning bees, beehives, apiary products or appliances or the premises on which they are kept does not relieve a person from a liability that the person may incur or have incurred under this Act to be charged, dealt with and punished in relation to that matter.

#### **42A Penalty notices**

- (1) A prescribed officer may serve a penalty notice on a person if it appears to the prescribed 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.
- (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.

- (3) A penalty notice may be served personally or by post.
- (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.
- (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.
- (6) The regulations may:
  - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
  - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
  - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (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.
- (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.
- (9) In this section, **prescribed officer** means any of the following:
  - (a) an inspector,
  - (b) a person of a class specified by the Director-General, by notice published in the Gazette, as a class of persons who may issue penalty notices under this section,
  - (c) any other person authorised in writing by the Director-General for the purposes of this section.

### **43 Offences by officers of corporations**

- (1) Where a corporation contravenes, whether by act or omission, any provision of this Act, every person who is an officer of the corporation shall be deemed to have contravened that provision unless that person satisfies the court that:
  - (a) the corporation so contravened the provision without that person's knowledge,
  - (b) that person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision, or
  - (c) that person, being in such a position, used all due diligence to prevent the contravention of the provision by the corporation.

- (2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.
- (3) Subsection (1) does not prejudice or affect any liability that is or may be imposed by or under a provision of this Act on a corporation by which an offence against the provision is actually committed.
- (4) In this section, **officer** of a corporation has the same meaning as it has in the [Corporations Act 2001](#) of the Commonwealth.

#### 44 Evidentiary provisions

- (1) If in any proceedings taken under this Act a person asserts that that person is an inspector, it shall be presumed, in the absence of evidence to the contrary, that that person was duly appointed as an inspector.
- (2) A copy of any order, certificate, direction, notice or other instrument made, issued or given for the purposes of this Act purporting to be certified by the Director-General as a true copy of the original instrument is admissible in evidence in any proceedings under this Act to the same extent as that original instrument.
- (3) A certificate by the Director-General that:
  - (a) a specified person is or is not a registered beekeeper or was or was not a registered beekeeper at a specified time,
  - (b) the keeping of bees or the establishment of an apiary on specified premises is prohibited or was prohibited at a specified time,
  - (c) a specified area was, at a specified time, declared to be an infected area or that, at a specified time, specified premises were within such an area, or
  - (d) specified land was, at a specified time, declared to be a quarantine area or a prohibited area under or for the purposes of a specified provision of this Act,is admissible in evidence in any proceedings under this Act, and, in the absence of evidence to the contrary, shall be proof of its contents.
- (4) All judges, magistrates and other persons acting judicially shall take judicial notice of the signature of the Director-General to any certificate issued under subsection (3).
- (5) Where in any proceedings it is proved that a beehive containing bees was found on any specified premises at a specified time, it shall be presumed, in the absence of evidence to the contrary, that those bees were kept by the person who was the occupier of those premises at that time.
- (6) Where in proceedings taken against a beekeeper for an offence against section 22 it is

proved that the bees to which the proceedings relate had been infected with a notifiable disease for a period of 7 days or more, then, for the purposes of those proceedings, it shall be presumed, in the absence of evidence to the contrary, that the beekeeper was at the end of that period aware that the bees were so infected.

#### **45 Injunctions**

- (1) Where a person has engaged, is engaged or is proposing to engage in any conduct that constituted, constitutes or would constitute a contravention of this Act, the Supreme Court may, on the application of the Director-General, grant an injunction restraining the first-mentioned person from engaging in that conduct and, if in the opinion of the Supreme Court it is desirable to do so, requiring that person to do any act or thing.
- (2) Where a person has refused or failed, is refusing or failing, or is proposing to refuse or fail, to do any act or thing that that person is required to do by or under this Act, the Supreme Court may, on the application of the Director-General, grant an injunction requiring that person to do that act or thing.
- (3) Where an application is made to the Supreme Court for an injunction under subsection (1), the Court may, if in its opinion it is desirable to do so, before considering the application, grant an interim injunction restraining a person from engaging in conduct of the kind referred to in that subsection pending the determination of the application.
- (4) The Supreme Court may rescind or vary an injunction granted under subsection (1), (2) or (3).
- (5) The power of the Supreme Court to grant an injunction under subsection (1) or (3) may be exercised:
  - (a) if the Court is satisfied that the person has engaged in conduct of that kind—whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind, or
  - (b) if it appears to the Court, that, in the event of the injunction not being granted, it is likely that the person will engage in conduct of that kind—whether or not the person has previously engaged in conduct of that kind and whether or not there would be an imminent danger of substantial damage to any person if the first-mentioned person were to engage in conduct of that kind.
- (6) Where an application is made to the Supreme Court for the grant of an injunction requiring a person to do a particular act or thing, the power of the Court to grant the injunction may be exercised:
  - (a) if the Court is satisfied that the person has refused or failed to do that act or thing—whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing, or

(b) if it appears to the Court that, in the event that an injunction is not granted, it is likely that the person will refuse or fail to do that act or thing—whether or not the person has previously refused or failed to do that act or thing and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person refuses or fails to do that act or thing.

(7) Where the Director-General makes an application for an injunction under this section, the Court shall not require the Director-General or any other person, as a condition of granting an interim injunction, to give any undertaking as to damages.

#### **46 Recovery of expenses**

(1) If:

(a) any person to whom a direction is lawfully given, or of whom a requirement is lawfully made, under this Act by the Director-General or an inspector fails to take such action as is, or to do such things as are, necessary to comply with the terms of the direction or requirement, and

(b) the Director-General or inspector or another inspector takes that action or does those things or causes that action to be taken or those things to be done and thereby incurs expense,

that expense is recoverable from that person in a court of competent jurisdiction as a debt due to the Crown.

(2) Where a Local Court finds a person to whom a direction or requirement has been lawfully given or made as referred to in subsection (1) guilty of an offence in relation to failing to comply with the direction or requirement and the Court is satisfied that an expense would be recoverable under that subsection by reason of the failure of that person to comply with the direction or requirement, the Court may, in making that finding, make an order directing that person to pay the amount of that expense to the Crown.

(3) An order under subsection (2) may be made on the application of the person prosecuting the offence mentioned in that subsection and not otherwise.

(4) A Local Court shall not make an order under subsection (2) directing the payment of an amount greater than the jurisdictional limit of a Local Court when sitting in its General Division within the meaning of the *Local Courts Act 1982*.

(5) An order under subsection (2) may be enforced in a Local Court exercising jurisdiction under Part 7 of the *Local Courts Act 1982*.

(6) Part 8 of the *Civil Procedure Act 2005* applies to and in respect of an order under subsection (2) as if:

(a) the order were a judgment of a Local Court in civil proceedings, and



- (b) the amount ordered to be paid were a judgment debt, and
- (c) the person against whom the order is made were a judgment debtor, and
- (d) the person in whose favour the order is made were a judgment creditor.

## Part 8 Miscellaneous provisions

### 46A Exclusion of personal liability

- (1) Anything done or omitted to be done:
  - (a) by the Director-General, or a person acting under the direction of the Director-General, or
  - (b) by an inspector,does not subject the Director-General, person or inspector personally to any action, liability, claim or demand if the thing was done, or omitted to be done, in good faith for the purpose of executing this Act.
- (2) If subsection (1) prevents liability attaching to the Director-General, a person acting under the direction of the Director-General or an inspector, the liability attaches instead to the State.

### 47 Service of documents

- (1) Any document that is required or permitted to be served on a person under this Act may be served:
  - (a) by delivering the document to that person,
  - (b) by leaving the document at the last known place of residence or business of that person, or
  - (c) by sending the document by post, with the postage prepaid, in an envelope addressed to that person at the usual or last known place of residence or business of that person.
- (2) In subsection (1), **last known** means last known to the person who is effecting the service.
- (3) Where for the purposes of this Act a document is required or permitted to be served on the occupier of premises, the document may, if the occupier's address is not known to the person effecting the service, be addressed to the occupier by that description, together with the number (if any) and address or other description of the premises concerned, without specifying any further name or description.
- (4) A document that is required or permitted to be served on the occupier of any

particular premises may, if addressed to the occupier of the premises, be served:

- (a) by delivering the document or a true copy of it to some person on those premises who is apparently over the age of 16 years, or
- (b) if there is no person on those premises who can be so served, by fixing the document or copy to some conspicuous part of the premises.

#### **47A Delegation**

The Director-General may delegate the exercise of any function of the Director-General under this Act (other than this power of delegation) to any member of staff of the Department.

#### **48 Certain orders to be published in Gazette**

An order made by the Governor or the Minister for the purposes of this Act shall:

- (a) be published in the Gazette, and
- (b) take effect on and from the date of publication or a later date specified in the order.

#### **49 (Repealed)**

#### **50 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), a regulation under that subsection may be made for or with respect to:
  - (a) prescribing functions of inspectors,
  - (b) providing for the registration of persons as beekeepers and, in particular, providing for the replacement of certificates of registration that have accidentally been lost or destroyed,
  - (c) prescribing the obligations of beekeepers with respect to the functions of inspectors,
  - (d) prescribing or providing for the form of notices and other documents required or authorised for the purposes of this Act,
  - (e) prescribing the fees (if any) that are payable under this Act,
  - (f) regulating the construction of beehives and the display of registration numbers on beehives,

- (g) controlling diseases of bees and prescribing the manner in which bees, beehives, apiary products or appliances are to be treated or disposed of in a case where they are infected by a notifiable or prescribed disease or are liable to spread a prescribed disease,
  - (h) prohibiting or regulating the sending, carriage or movement into, within or from New South Wales of bees, beehives, apiary products or appliances which are infected or are suspected to be infected with a notifiable or prescribed disease,
  - (i) regulating the carriage within New South Wales of bees and beehives,
  - (j) regulating the manufacture, packing, labelling and sale of queen candy as food for bees,
  - (k) prohibiting bees, beehives, apiary products or appliances from being imported or brought into New South Wales at places other than specified places of entry,
  - (l) providing for the grading and packing of apiary products and the branding or labelling of packages containing apiary products and for prohibiting the sale of those products unless the prescribed conditions are fulfilled, and
  - (m) prescribing the method of valuing queen bees for the purpose of determining the amount of compensation that is payable under Part 5 to an owner of queen bees that have been destroyed.
- (3) A regulation under this section may provide for a contravention of or failure to comply with a provision of a regulation to be an offence and for the imposition of a penalty not exceeding 5 penalty units in respect of such an offence.
- (4) A provision of a regulation may:
- (a) apply generally or be limited in its application by reference to specified exceptions or factors,
  - (b) apply differently according to different factors of a specified kind, or
  - (c) authorise any matter or thing to be determined, applied or regulated from time to time by any specified person or body,
- or may do any combination of those things.
- (5) (Repealed)

### **51 Amendment of Schedules 1, 2 and 3**

- (1) The Governor may, by order published in the Gazette, amend Schedule 1, 2 or 3 by:
- (a) omitting an item from the Schedule,

(b) inserting a new item in the Schedule, or

(c) omitting an item from the Schedule and substituting another item.

(2) An order under subsection (1) may take effect on and from the date of publication of the order in the Gazette or on and from a later date specified in the order.

## **52 Repeals**

Each Act specified in Schedule 4 is, to the extent specified in that Schedule, repealed.

## **53 Savings and transitional provisions**

Schedule 5 has effect.

## **54 Description of land in documents under this Act**

Land is sufficiently described in a document given under this Act if the description of the land allows no reasonable doubt as to the land to which the document relates.

## **Schedule 1 Notifiable diseases**

(Section 3 (1))

American foulbrood (*Bacillus larvae*)

## **Schedule 2 Prescribed diseases**

(Section 3 (1))

American foulbrood (*Bacillus larvae*)

## **Schedule 3 Compensatable diseases**

(Section 3 (1))

American foulbrood (*Bacillus larvae*)

## **Schedule 4 Repeals**

(Section 52)

[Apiaries Act 1916 No 24](#)—the whole Act.

[Apiaries \(Amendment\) Act 1917 No 9](#)—the whole Act.

[Statute Law Revision Act 1937 No 35](#)—so much of the Second Schedule as amends the [Apiaries Act 1916](#).

[Apiaries \(Amendment\) Act 1944 No 22](#)—the whole Act.

[Metric Conversion Act 1978 No 67](#)—so much of Schedule 1 as amends the [Apiaries Act 1916](#).

## Schedule 5 Savings and transitional provisions

(Section 53)

### 1 Definition

In this Schedule, **commencement day** means the day on which the provisions of this Act referred to in section 2 (5) commence.

### 2 Inspectors

The persons holding office as inspectors under section 3 (1) of the repealed Act immediately before the commencement day shall be deemed to have been appointed as inspectors under section 5 (1) of this Act.

### 3 Beekeeper deemed to have notified notifiable disease in certain cases

Where:

- (a) a beekeeper on whose apiary a disease appeared before the commencement day has, before that day, sent written notice of the disease to the Minister or an inspector in accordance with section 5 of the repealed Act, and
- (b) the disease is a notifiable disease which continues to infect the bees in the apiary on the commencement day,

the beekeeper shall be deemed to have complied with section 22 in relation to the infection of those bees with that disease.

### 4 Effect of proclamation under section 8C of repealed Act

Where, immediately before the commencement day, a proclamation by the Governor under section 8C of the repealed Act was in force, that proclamation shall, on and after that day, continue in force, and may be altered, varied or revoked, as if it were an order made by the Minister under section 26 of this Act.

### 5 Effect of proclamation under section 12C of repealed Act

Where, immediately before the commencement day, a proclamation under section 12C of the repealed Act was in force, that proclamation shall, on and after that day, continue in force, and may be revoked, altered or varied, as if it were an order made under section 19 of this Act.

### 6 Regulations of a savings or transitional nature

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

    this Act

### *Apiaries Amendment Act 2006*

- (2) A provision made under subclause (1) may take effect as 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 a public authority), the rights of that person existing before the date of its publication therein, or
  - (b) to impose liabilities on any person (other than the State or a public authority) in respect of anything done or omitted to be done before the date of its publication therein.
- (4) A provision made under subclause (1) shall, if the regulations expressly so provide, have effect notwithstanding the provisions of clauses 1-5.

#### **7 Continuity of things done**

Anything done by the Chief, Division of Animal Industries under or for the purposes of section 24A (1) (b) is, to the extent that the thing done had effect immediately before the amendment of that paragraph by the *Statute Law (Miscellaneous Provisions) Act 2005*, taken to have been done by the Director-General.

#### **8 Prescribed forms**

A form prescribed for the purposes of section 7 (2) (a), 8 (3) (a), 10 (3), 11 (2) (a) or (6) (b) or 30 (1) by a regulation in force immediately before the repeal and re-enactment or amendment (as the case may be) of the provision concerned by the *Statute Law (Miscellaneous Provisions) Act 2005* is, until such time as a different form is approved for the purposes of the provision concerned, taken to be an approved form for the purposes of that provision.

#### **9 Notice to stop vehicle**

A traffic sign of a kind prescribed for the purposes of section 38 (2) by a regulation in force immediately before the amendment of that subsection by the *Statute Law (Miscellaneous Provisions) Act 2005* is, until such time as a traffic sign of a different kind is approved for the purposes of that provision, taken to be a traffic sign of a kind approved by the Director-General.

#### **10 Registrar of beekeepers**

- (1) Anything done by the registrar of beekeepers under or for the purposes of this Act is, to the extent that the thing done had effect immediately before the repeal of section 4

by the *Apiaries Amendment Act 2006*, taken to have been done by the Director-General.

- (2) Any application for registration made to the registrar under section 7 and not finally determined before the amendment of that section by the *Apiaries Amendment Act 2006* is taken to have been made to the Director-General.

## **11 Register of beekeepers**

The register of beekeepers kept under section 13 immediately before the amendment of that section by the *Apiaries Amendment Act 2006* is taken to be the register required to be kept under that section as so amended.