

# Stock Diseases Act 1923 No 34

[1923-34]



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**
  - [Miscellaneous Acts \(Local Court\) Amendment Act 2007 No 94](#) (not commenced)
  - [Statute Law \(Miscellaneous Provisions\) Act 2009 No 56](#) (not commenced — to commence on 17.7.2009)

### Authorisation

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File last modified 1 July 2009

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# Stock Diseases Act 1923 No 34



New South Wales

An Act relating to diseases in stock; to repeal the *Stock Diseases (Tick) Act 1901* and the *Stock Diseases (Tick) Amendment Act 1915*; and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act and commencement

This Act may be cited as the *Stock Diseases Act 1923* and shall come into operation on a date to be appointed by the Governor and notified in the Gazette.

#### 1A (Repealed)

### 2 Repeals and savings

- (1) The *Stock Diseases (Tick) Act 1901* and the *Stock Diseases (Tick) Amendment Act 1915* are hereby repealed.
- (2) All persons appointed under the provisions of the said Acts and holding office at the commencement of this Act shall be deemed to have been appointed under the provisions of this Act.
- (3) All proclamations, notices, and orders made or given under the Acts hereby repealed and in force at the commencement of this Act shall continue in force until amended, repealed or withdrawn in pursuance of this Act.
- (4) All regulations made under the *Stock Diseases (Tick) Act 1901* in force at the commencement of this Act shall continue in force until repealed by proclamation under this Act, and until such repeal may be enforced and acted upon as if they were regulations made under this Act.
- (5) Where in any Act, regulation or by-law, or in any form or document used after the commencement of this Act, reference is made to the provisions of any enactment repealed by this Act the reference shall be deemed to be a reference to the corresponding provisions (if any) of this Act.
- (6) (Repealed)

### 3 Definitions

(1) In this Act, unless the context otherwise requires:

**Abattoir** means any premises used for the slaughter of stock or for the processing of carcasses of stock.

**Artificial breeding equipment** means any plant, machinery, equipment, apparatus, utensil, additive, extender, diluent, material or other thing used or intended to be used for or in connection with an artificial breeding procedure.

**Artificial breeding material** means semen, ova and embryos of any stock.

**Artificial breeding procedure** means each of the procedures of collecting, processing, handling, storing and distributing artificial breeding material and includes artificial insemination and ovum transfer.

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

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

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

**Disease** means:

- (a) in stock—any disease, parasite or pest declared under section 4 (a) to be a disease in stock for the purposes of provisions of this Act, and
- (b) in artificial breeding material—any disease, condition or characteristic declared under section 4 (b) to be a disease in artificial breeding material for the purposes of provisions of this Act.

**Fittings** includes stall fittings, utensils, implements, rugs, harness, chains, headstalls, and anything commonly used for, with or about stock or places where they are kept, and also includes artificial breeding equipment.

**Fodder** includes hay, straw, litter, grass, grass seed, green crop, grain, corn, any type of stock food and the manure of any stock.

**Holding** means any land in respect of which a return of land and stock is required to be furnished under section 76 of the [Rural Lands Protection Act 1998](#).

**Infected** means:

- (a) in relation to stock that the stock are diseased or have been on land on which there are, or have been within the preceding 12 months, diseased stock, or
- (a1) in relation to artificial breeding material—that stock bred from the artificial

breeding material may, as a result of being bred from the material, be affected by disease in the material, or

- (b) in relation to a carcass—that the carcass is of infected stock, or
- (c) in relation to land—that the land is land on which diseased stock are present, or have been present during the preceding 12 months, except if that presence consisted only in the transport of the stock by vehicle over the land.

**Inspector** means inspector appointed under this Act.

**Occupier** when used in relation to land includes a person in charge of land as manager, agent or superintendent or otherwise.

**Ova** means:

- (a) germ cells of female stock, or
- (b) cells of female stock that can develop into new members of the same species after maturation and fertilisation,

and includes fertilised cells, embryos and foetuses up to the end of the first third of pregnancy, but does not include cells or embryos of an avian species of stock.

**Ovum transfer** means any operation by which an ovum is collected from female stock and implanted in other female stock either by way of an intermediate host animal or otherwise.

**Protected area** means land declared by the Minister to be a protected area under section 11A.

**Protected (control) area** means land declared by the Minister to be a protected (control) area under section 11A.

**Quarantine area** means any land which:

- (a) is declared by the Minister to be a quarantine area under section 10,
- (b) is deemed to be a quarantine area under section 11, or
- (c) is declared by an inspector to be a quarantine area under section 8.

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

**Regulations** means regulations for the time being in force made under the provisions of this Act.



**Semen** means the fluid produced by the reproductive organs of male stock and includes:

- (a) any part of that fluid, and
- (b) spermatozoa in any fluid or frozen medium.

**Stock** means horses, cattle, asses, mules, camels, sheep, pigs, or goats, or any animals or birds or any eggs of any birds to which the Governor by proclamation to be published in the Gazette may apply the provisions of this Act.

**Editorial note—**

For proclamations under this definition see Gazettes No 4 of 8.1.1999, p 33 and No 119 of 19.7.2002, p 5476.

**Travelling stock** means stock on any vessel, aeroplane or airship, or taken, driven, or carried along any road or on any land other than that on which they are ordinarily kept or pastured.

**Veterinary practitioner** has the same meaning as in the [Veterinary Practice Act 2003](#).

- (2) For the purposes of this Act (other than section 1), a power to issue a proclamation, to make an order or to give a notification, a notice or an authority shall include and shall be deemed always to have included a power:
  - (a) to revoke or amend that instrument, or
  - (b) to extend or suspend for any period the effect of that instrument.
- (3) Where by any provision of this Act a person is required to do, or to refrain from doing, some act or thing in relation to the sending of stock to an abattoir for slaughter or to a saleyard for sale, that provision shall be construed as requiring the person to do, or to refrain from doing, the act or thing, whether or not the abattoir or saleyard, as the case may be, is situated in New South Wales.
- (4) A reference in this Act to fittings contaminated with disease includes, in the case of a disease in artificial breeding material, a reference to fittings contaminated with infected artificial breeding material.

### **3A (Repealed)**

### **4 Diseases to which Act applies**

The Governor may by proclamation:

- (a) declare a specified disease, parasite or pest that affects or attacks stock to be a disease in stock for the purposes of the provisions of this Act (or such of those provisions as may be specified in the proclamation), or

**Editorial note—**

For proclamations made or taken to have been made under this paragraph see Gazettes No 4 of 8.1.1999, p 33; No 11 of 28.1.2000, p 547; No 93 of 30.5.2003, p 4954 (revoked Gazette No 197 of 19.12.2003, p 11457); No 197 of 19.12.2003, p 11457 (see also Gazette No 63 of 26.3.2004, p 1554) (revoked Gazette No 166 of 23.12.2005, p 11660); No 63 of 26.3.2004, p 1554 (revoked Gazette No 166 of 23.12.2005, p 11660); No 86 of 8.7.2005, p 3626 (revoked Gazette No 166 of 23.12.2005, p 11660); No 90 of 15.7.2005, p 3759 (revoked Gazette No 166 of 23.12.2005, p 11660); No 166 of 23.12.2005, p 11660 (revoked Gazette No 185 of 21.12.2007, p 10475); No 185 of 21.12.2007, p 10475 (revoked Gazette No 38 of 28.3.2008, p 2567); No 38 of 28.3.2008, p 2567 and No 29 of 6.2.2009, p 799.

- (b) declare a specified disease or undesirable condition or characteristic that affects stock to be a disease in artificial breeding material for the purposes of the provisions of this Act (or such of those provisions as may be specified in the proclamation).

## **Part 2**

### **5 (Repealed)**

## **Part 3 Inspectors**

### **6 Inspectors**

- (1) The Director-General may appoint a person to be an inspector for the purposes of this Act.
- (2) The Director-General may authorise in writing any person to perform any or all of the duties and exercise any or all of the powers of an inspector.
- (3) The Director-General may:
- (a) revoke an appointment made, and
  - (b) amend or revoke an authority given,
- under this section.
- (4) An appointment of a person or an authority given to a person under this section in the person's capacity as an officer or a temporary employee of the Public Service employed in the Department or in some other capacity shall be deemed to be revoked if the person ceases to be such an officer or a temporary employee or to be employed in that other capacity.
- (4A) Despite subsection (4), a person who:
- (a) was appointed as an inspector or authorised to perform any duties, or exercise any powers, of an inspector by an authorisation revoked by that subsection, and
  - (b) is subsequently employed in a capacity in which the person is required by the Director-General to perform the duties, or exercise the powers, of an inspector,

may, while the person is employed in that capacity, perform those duties and exercise those powers as if the former appointment or authorisation were still in force.

- (5) An inspector shall have, and may exercise, the duties and powers imposed or conferred on the inspector by or under this Act.

#### **6A Police officers and Commonwealth inspectors exercising powers**

- (1) A police officer may exercise all or any of the powers of an inspector.
- (2) An employee under an Act of the Parliament of the Commonwealth who, in his or her capacity as such, engages in the inspection of meat may exercise the powers of an inspector referred to in sections 7 (1) (bi), 19G and 19Q.
- (3) A reference in this Act to an inspector includes a reference to a person referred to in subsection (1) or (2) in the course of exercising, as referred to in this section, the powers of an inspector.

#### **7 Powers of inspectors**

- (1) Notwithstanding the provisions of any other Act, any inspector may at any time:
- (a) with or without assistants enter any land, building, vehicle, vessel, aeroplane or airship for the purpose of inspecting or treating any stock, artificial breeding material, carcass, fodder or fittings, or enforcing the provisions of this Act or the regulations,
- (b) detain or take possession of any stock, artificial breeding material or carcass which is infected or which the inspector suspects to be infected or any stock which in his or her opinion is straying, or any fodder or fittings which are contaminated with disease or which the inspector suspects to be so contaminated, or any stock, artificial breeding material, carcass, fodder or fittings in respect of which in his or her opinion an offence against this Act or the regulations has been committed,
- (bi) cause any stock or artificial breeding material to be tested for any disease or take from any stock or artificial breeding material or carcass a specimen of any kind,
- (bii) order the owner or person in charge of stock or artificial breeding material to cause the stock or artificial breeding material to be tested for any disease in a manner approved by the Director-General, whether or not the stock or artificial breeding material has previously been tested, and whether or not that testing was ordered or caused to be done by an inspector,
- (c) order the owner or person in charge of stock, or the occupier of any land on which are any stock, to muster them at a specified place on the land or, where in the opinion of the inspector no facilities suitable for the purposes of the order exist on that land, at a specified place on other land, for the purpose of examination or treatment or of enabling the inspector to cause any or all of them to be tested for

any disease or to take any specimens from them and to provide such assistance as the inspector may reasonably require,

- (d) detain travelling stock or order them to be detained for the purpose of examination or treatment or of enabling the inspector to cause any or all of them to be tested for any disease or to take any specimens from them, or until the provisions of this Act and the regulations have been complied with to the satisfaction of the inspector, and order the owner or person in charge of the stock to take them to a specified place for such examination or treatment or test or to enable specimens to be taken from them, or in order that such provisions may be complied with,
- (e) order the owner or person in charge of travelling stock which are infected or which the inspector suspects to be infected to forthwith take them back to any place from which they have been or are being removed or through which they have passed.

(1A) For the purposes of (and without limiting) subsection (1) (b), an inspector may detain or take possession of stock by displaying a notice stating that the inspector has detained or taken possession of the stock (as appropriate). The notice must be prominently displayed on, next to, or on a gate to, the pen, yard, paddock or other enclosure or area where the stock are located.

(2) An order under subsection (1) (bii) or (c), and an order under subsection (1) (d) requiring a person to take stock to a place specified in the order, may specify a time at which, or a period within which, the order shall be complied with.

(3) Where an inspector is of the opinion:

- (a) that stock (not being travelling stock) should be mustered for the purposes specified in subsection (1) (c), and
- (b) that no facilities suitable for those purposes exist on the land on which the stock are located,

and the inspector is of the further opinion:

- (c) that the stock should not, for those purposes, be removed from that land because of the presence or suspected presence of disease on that or any other land, or
- (d) that no facilities suitable for those purposes are available within a reasonable distance of the land on which the stock are located,

the inspector may, with the approval of an authorised officer, order the occupier of the land on which the stock are located to provide at a specified place on that land, within such time as is specified in the order, such facilities, including crushes, as the inspector may deem necessary for those purposes.

- (4) For the purposes of subsection (3), an authorised officer is the Director-General or a person, or a person of a class, prescribed by the regulations for the purposes of this subsection.
- (5) An inspector may, in a manner approved by the Director-General, brand or otherwise mark any stock or things:
  - (a) which the inspector otherwise suspects on reasonable grounds are infected, or
  - (b) which the inspector suspects on reasonable grounds have been moved contrary to this Act or a regulation or other instrument made under this Act, or
  - (c) which are straying, or the subject of any order, or seized, under this Act, or
  - (d) otherwise for the purpose of investigating or controlling diseases, even if the stock or things themselves are not infected.
- (6) An inspector may issue a written permit to a person who is the owner, or person in charge, of stock, permitting that person (despite the provisions of this Act) to move the stock in accordance with the terms of the permit.

#### **7A Questions and inquiries by inspectors**

- (1) Where an inspector at any reasonable time informs a person that the inspector is making inquiries for the purposes of this Act in relation to any stock, artificial breeding material or carcass which is infected or which the inspector suspects to be or to have been infected, any stock which in the opinion of the inspector is straying, any fodder which is or fittings which are contaminated with disease or which the inspector suspects to have been so contaminated or any stock, artificial breeding material, carcass, fodder or fittings in respect of which, in the opinion of the inspector, an offence against this Act or the regulations has been committed, and the inspector has warned that person that it is an offence under this Act to fail to answer the question concerned or to give a reply that is false or misleading in any material particular, that person shall not fail to answer any question, being a question relating to the stock, artificial breeding material, carcass, fodder or fittings, put to the person by the inspector, or make a reply to any such question, that is false or misleading in any material particular.
- (2) The person must also comply with any demand by the inspector to produce any record in the possession or under the control of the person relating to the stock, artificial breeding material, carcass, fodder or fittings if the inspector has put a question to the person under subsection (1) and also warned the person that it is an offence not to comply with a demand under this subsection.
- (3) An inspector may make copies of, or extracts or notes from, a record referred to in subsection (2).

(4) A person referred to in subsection (1) is not excused from:

- (a) answering a question put to the person pursuant to subsection (1), or
- (b) producing any record demanded of the person pursuant to subsection (2),

on the ground that the answer or the record might tend to incriminate the person but, where the person claims, before answering the question or producing the record, that the answer or the record so produced might tend to incriminate the person, neither the question nor the answer, nor any record produced, is admissible in evidence against the person in criminal proceedings other than proceedings under subsection (1) or (2).

## **8 Further powers of inspectors**

(1) Notwithstanding the provisions of any other Act, when any stock are found by an inspector to be infected or suspected by the inspector of being infected, the inspector may:

- (a) order the owner or any person having control or in charge of the stock or the occupier of the land upon which the stock are found, kept or pastured to cause them to be identified, tested or treated in such manner as the inspector may specify (but subject to any requirement prescribed by the regulations),
- (b) order that owner, person or occupier to remove to a specified place the stock and any fodder, fittings or other things whatsoever used in connection therewith or any thing produced by or from the stock and, if the inspector thinks fit, order that owner, person or occupier to slaughter the stock or cause the stock to be slaughtered at that specified place,
- (c) by notice in writing served on the owner or occupier of any land upon which the stock have been found, pastured, kept or travelled or across which the stock have been transported or to which the stock have been removed:
  - (i) declare any such land to be a quarantine area in respect of stock of that or any other kind for such period not exceeding 40 days as may be specified in the notice and, if the inspector thinks fit, require that owner or occupier to confine the stock to any land specified in the notice for such a period, or
  - (ii) declare any such land to be a quarantine area in respect of stock of that or any other kind for such a period and require that owner or occupier to confine the stock to that quarantine area for a like period,
- (c1) with the approval of the Minister, require, by an order in a form prescribed by the Director-General, the owner of any land or the lessee of any Crown land, that is within a quarantine area, not being a quarantine area declared by the Minister under section 10, and is not sufficiently fenced or enclosed to prevent the ingress

or egress of stock, to carry out such fencing or repairs or additions to fencing as may be specified in the order within the time so specified,

(d) order:

(i) the owner or any person in possession of any hide, skin, hair or wool of the stock, or any articles used in connection with the stock or any thing produced by or from the stock, or

(ii) the occupier of the land on which the same are found,

to cause them to be treated in such manner as the inspector may specify (but subject to any requirement prescribed by the regulations),

(e) order the owner or any person in possession or charge of any vehicle or vessel which has been used for the conveyance of any such stock, hide, skin, hair, wool, article or thing to cause the vehicle or vessel to be disinfected in such manner as the inspector may specify (but subject to any requirement prescribed by the regulations),

(f) order the owner or occupier of any land upon which the stock are or have been to cause the land or any building thereon to be disinfected in such manner as the inspector may specify (but subject to any requirement prescribed by the regulations).

(1AA) When any artificial breeding material on land or premises is found by an inspector to be diseased or suspected by the inspector of being diseased, the inspector may by notice in writing served on a person who is the owner or occupier of the land or premises require the person to keep the artificial breeding material on the land or premises for a specified period of up to 40 days.

(1A) An inspector may, in an order under subsection (1) (a), (b), (d), (e) or (f), specify a period within which the act, matter or thing required by the order shall be done or performed.

(2) The provisions of section 13 (4) apply, with appropriate modifications, to any person carrying out any work pursuant to an order under subsection (1) (c1).

(3) An inspector may, with the approval of the Director-General, extend the period for which land is declared to be a quarantine area under subsection (1) (c) for a further period (not exceeding 40 days) specified in a further notice in writing given to the owner or occupier of the land.

(3A) An inspector may, with the approval of the Director-General, extend the period for which artificial breeding material is required to be kept on land or premises under subsection (1AA) for a further period (not exceeding 40 days) specified in a further notice in writing given to the owner or occupier of the land or premises.

- (4) The power conferred on an inspector by subsection (3) may not be exercised more than once in respect of any declaration.
- (5) An inspector may order a person who enters or leaves a quarantine area, or who enters or leaves a vehicle, vessel or land which has been in contact with infected stock or an infected carcass or an infected thing, to disinfect the person's clothes and footwear in such manner and within such time as the inspector may specify (but subject to any requirement prescribed by the regulations).

**8A (Repealed)**

**8B Suspected person to give name and place of residence**

- (1) An inspector who finds a person committing an offence against this Act or a regulation or who finds a person whom, on reasonable grounds, the inspector suspects of having committed or attempted to commit any such offence may demand from the person his or her name and place of residence.
- (2) Any person who upon demand made under this section:
  - (a) fails or refuses to state his or her name or place of residence, or
  - (b) gives a false name or place of residence,is guilty of an offence.

Maximum penalty: 100 penalty units.

**8C (Repealed)**

**Part 4 Control of diseases in stock**

**Division 1 Notification of diseases**

**9 Occupier etc to give notice**

- (1) The occupier of any land upon which stock are depasturing, or the owner of any stock, or in the case of travelling stock the person in charge of the stock, shall, subject to subsection (4), give written notice in accordance with subsection (3) within a period of 48 hours after it first comes to his or her knowledge that any of the stock are diseased.

Maximum penalty: 100 penalty units.

- (2) Subject to subsection (4), every veterinary practitioner who examines or is consulted with respect to any stock, and any other person who, whether in the practice of veterinary science or otherwise, attends or is consulted with respect to any stock shall, if he or she is of opinion or suspects that any of the stock is diseased, give written notice in accordance with subsection (3) within a period of 48 hours after he or



she examined or attended the stock or was consulted with respect to the stock.

Maximum penalty: 100 penalty units.

(2A) Subject to subsection (4), every veterinary practitioner who, as a result of an examination or consultation concerning any stock or artificial breeding material, is of the opinion or suspects that artificial breeding material is diseased, must give written notice in accordance with subsection (3AA) within a period of 48 hours after he or she examined or was consulted with respect to the stock or artificial breeding material.

Maximum penalty: 100 penalty units.

(2B) A written notice referred to in subsection (2A) is to be given to an inspector of a class prescribed by the regulations for the purposes of this subsection or, if no such class is prescribed, an inspector employed by the Department.

(3) A written notice referred to in subsection (1) or (2) is to be given to:

- (a) the livestock health and pest authority for the livestock health and pest district in which the stock are then located, or
- (b) (Repealed)
- (c) an inspector of a class prescribed by the regulations for the purposes of this paragraph or, if no such class is prescribed, an inspector employed by the Department.

(3AA) The notice must state the following matters to the best of the knowledge of the person giving the notice:

- (a) the nature of the disease,
- (b) in the case of a disease in stock, the number and description of the stock and of the stock that are diseased or believed to be or suspected of being diseased,
- (c) in the case of a disease in artificial breeding material, the nature and quantity of the artificial breeding material and of the artificial breeding material that is diseased or believed to be or suspected of being diseased,
- (d) the location of the stock or artificial breeding material,
- (e) the name and address of the owner of the stock or artificial breeding material,
- (f) the name of the occupier of the land or premises where the stock or artificial breeding material is located,
- (g) if the stock are travelling, the name and address of the person in charge of the stock.

- (3A) If stock are on land which forms part of a holding (as defined in the *Rural Lands Protection Act 1998*) and the holding is situated in 2 or more pastures protection districts the land shall, for the purposes of subsection (3), be taken to be:
- (a) in the district in which the greater part of the holding lies, or
  - (b) if the holding lies equally in each of the districts, in the district in which the main residence of the occupier of the holding is situated.
- (4) Where in any particular case it is impracticable for any such occupier, owner, person in charge, veterinary practitioner or other person to give such written notice within such period of 48 hours, it shall be a sufficient compliance with the provisions of subsection (1), (2) or (2A), as the case may be, if he or she gives to any such authority or inspector verbal notice of the disease or suspected disease within such period and confirms it in such written form:
- (a) in the case of an occupier, owner or person in charge, within 5 days, or
  - (b) in the case of a veterinary practitioner or other person, within 10 days, after the expiration of such period.
- (5) An occupier, owner or person in charge referred to in subsection (1) shall, so far as is practicable, cause any diseased stock to be drafted out and kept separate from stock which are not diseased.
- Maximum penalty: 100 penalty units.
- (6) Proceedings against a person for a contravention of any of the provisions of this section may be instituted under this Act at any time within 12 months after the date on which the offence is alleged to have been committed.

**9A (Repealed)**

**Division 2 Quarantine areas, protected areas and protected (control) areas**

**10 Declaration of quarantine area**

The Minister may by notification published in the Gazette declare any land therein described to be a quarantine area on account of the presence or suspected presence of any disease.

**10A (Repealed)**

**11 Undertaking in certain cases**

- (1) The Minister may, if he or she thinks fit, instead of declaring land to be a quarantine area, accept an undertaking in a form acceptable to the Minister given by the owner

or occupier of the land to comply with the requirements mentioned therein.

- (2) Upon any such undertaking being given, the land mentioned therein shall for the period therein specified be deemed to be a quarantine area, and the person giving the undertaking shall comply with all the terms and conditions thereof.
- (3) The Minister may release an owner or occupier of land from an undertaking given by the owner or occupier and, upon that release, subsection (2) shall cease to have effect with respect to that undertaking and the period referred to in that subsection shall be deemed to have ended.
- (4) For the purposes of this section, an inspector may, on behalf of the Minister, accept an undertaking given by an owner or occupier in a form acceptable to the inspector and release the owner or occupier from an undertaking.

#### **11A Protected areas and protected (control) areas**

- (1) The Minister may by notification published in the Gazette declare any land therein described to be a protected area or a protected (control) area as regards any specified disease, and may by the same or a like notification restrict or prohibit the bringing into the area of any stock or any class of stock, or any artificial breeding material, carcass, fodder, fittings or animal products.
  - (1A) A protected (control) area is an area with a moderate prevalence of a disease.
  - (1B) A protected area is an area with a lower prevalence of a disease.
- (2) The Minister may by the same or a like notification require any specified class or classes of stock or artificial breeding material within a protected area or a protected (control) area to be subjected to such test or treatment as is specified in the notification.
- (3) (Repealed)
- (4) Any land which is wholly or partly included within a protected area or a protected (control) area may be included in a quarantine area on account of the presence or suspected presence of the disease in respect of which the protected area or a protected (control) area was declared or on account of the presence or suspected presence of any other disease.

#### **11B Protection against importation of diseased stock etc**

- (1) The Governor may, by proclamation published in the Gazette, restrict or absolutely prohibit the importation or introduction into the State of any of the following things that, in the Governor's opinion, might be infected or contaminated with disease or might carry or spread disease, namely, any stock, artificial breeding material, carcass, fodder, fittings or animal products or any description or class of stock, artificial

breeding material, carcasses, fodder, fittings, animal products or other things specified in the proclamation.

(1A) Without limiting the generality of subsection (1), a proclamation under that subsection may restrict the importation or introduction into the State of any stock, carcass, fodder, fittings, animal products or any other thing except at such ports or places as may be specified in the proclamation.

(2) (Repealed)

## **12 Further powers of Minister**

The Minister may by notification published in the Gazette and in a newspaper circulating in or in the vicinity of a quarantine area, protected area or protected (control) area:

- (a) appoint places on or near the boundary of the quarantine area, protected area or protected (control) area, which shall be the only places at which any stock or class of stock, or any artificial breeding material, carcass, fodder, fittings or animal products specified in the notification may lawfully cross or be lawfully moved across such boundary,
- (b) authorise the erection of fencing and gates across any road within a quarantine area, protected area or protected (control) area for the purpose of regulating or preventing the movement of stock, class of stock, any artificial breeding material, carcass, fodder, fittings or animal products or vehicles,
- (c) close any road in a quarantine area, protected area or protected (control) area in such a manner as to regulate or prevent the passage of stock or vehicles or of any class of stock or artificial breeding material, carcass, fodder, fittings or animal products specified in the notification.

### **12A Powers of inspectors to stop, enter and search vehicles etc**

(1) At any place on or near a boundary of the State, any portion of the State, a quarantine area, protected area, protected (control) area, or any land to or in respect of which a regulation, proclamation, notification, undertaking, notice or permit made, given or issued under or pursuant to this Act, applies, an inspector may display a traffic sign of a type approved by the Director-General in such a manner as to be clearly visible to the driver or person in charge of a vehicle approaching that place.

In this subsection **place** includes road, whether public or otherwise.

(2) The driver or person in charge of a vehicle approaching towards such sign shall stop or cause the vehicle to be stopped within a reasonable distance of the sign and keep the vehicle stationary for the purposes of enabling an inspector to exercise the powers conferred upon the inspector by this Act or any regulation.

(3) An inspector may, upon production of the prescribed evidence of his or her

appointment if demanded, enter any vehicle, vessel, aeroplane or airship and may search and inspect it and open any part of it or require the driver or person in charge of such vehicle, vessel, aeroplane or airship to open any part of it for the purpose of ascertaining whether the vehicle, vessel, aeroplane or airship or part thereof or any stock, artificial breeding material, carcass, fodder, fitting, animal products or anything therein or thereon is infected or contaminated with disease, or is or apparently is being or has been conveyed with, in or by such vehicle, vessel, aeroplane or airship contrary to any provision of this Act or any regulation, proclamation, notification, undertaking, notice or permit made, given or issued under or pursuant to this Act.

(4) An inspector so entering, searching or inspecting may take specimens, open containers, packages or other things in or on the vehicle, vessel, aeroplane or airship and do such other things as the inspector may deem necessary or expedient for the purpose of preventing the importation, introduction, transmission or spread of any disease or thing likely to cause disease into or out of the State, portion of the State or any quarantine area, protected area, protected (control) area or land referred to in subsection (1).

(5) Any person who:

(a) being the driver or person in charge of any vehicle fails to comply with or observe the requirements of subsection (2),

(b) refuses or wilfully neglects to submit any vehicle, vessel, aeroplane or airship or any part thereof or any stock, artificial breeding material, carcass, fodder, fittings, animal products or anything therein or thereon to search or inspection by an inspector in pursuance of the provisions of this section, or who being the driver or person in charge of a vehicle, vessel, aeroplane or airship refuses or wilfully neglects to open any part thereof, or

(c) wilfully impedes or avoids any entry, search or inspection by an inspector acting under the provisions of this section or who fails to afford reasonable assistance to an inspector, so acting, to enter, search or inspect, or

(d) defaces, damages or removes a traffic sign which is displayed pursuant to subsection (1),

is guilty of an offence.

Maximum penalty: 100 penalty units.

## **12B Bans on shows or sales**

(1) The Minister may, by order published in the Gazette, prohibit, or impose conditions on, the holding of agricultural shows or public sales of stock in a specified area if the Minister considers that such shows or sales are likely to facilitate the spread of a disease among stock.

- (2) A person must not hold or assist in holding an agricultural show or public sale of stock, or cause such a show or sale to be held, if the show or sale has been prohibited under this section.
- (3) A person who holds or assists in holding an agricultural show or public sale of stock, or causes such a show or sale to be held, must not do anything contrary to any condition imposed under this section on the holding of the show or sale.
- (4) An order under this section remains in force for the period (if any) specified in the order, or 6 months, whichever is the shorter.

Maximum penalty: 100 penalty units.

### **13 Power to order fencing**

- (1) The Minister may, by notice published in the Gazette, require all owners of land, and all lessees of any Crown land, within a quarantine area or a protected area, to fence the land within the time specified in the notice and in a manner sufficient to prevent any stock of a class specified in the notice from getting in or getting out.
- (2) If an inspector is of the opinion that there are stock of that class in the area where such a requirement is in force, on land which is not sufficiently fenced or enclosed to prevent stock of that class getting in or getting out, the inspector may, by notice in writing, order the owner of the land (or the lessee if it is Crown land) or the occupier of the land to carry out such fencing or repairs or additions to fencing as the inspector considers necessary, within the time specified in the notice.
- (3) (Repealed)
- (4) Any person who has erected any fencing or repaired or carried out any additions to fencing in pursuance of an order under this section may demand and recover in any court of competent jurisdiction from:
  - (a) the owner of adjoining land, or
  - (b) any lessee from the Crown of adjoining land,

a contribution towards the cost of such fencing, repairs, or additions to the extent of one-half the value thereof, but only so far as the fencing makes a common boundary line. Such contribution may be demanded and recovered notwithstanding anything contained in the [Dividing Fences Act 1991](#).

### **14 Quarantine**

- (1) Where land or stock are by the provisions of this Act to be quarantined, the quarantine may be general or in respect of a particular disease.
- (2) The nature of the quarantine shall be stated in the notice, order or notification

imposing the quarantine or in the undertaking given with respect to any land or stock under the provisions of section 11.

- (3) A quarantine may be imposed or declared for a disease although the land or stock are already in quarantine for another disease.
- (4) The course of action to be taken by the owner or occupier of land or the owner or person in charge of stock when the land or stock is in a quarantine area, protected area or protected (control) area or is required to be quarantined shall be as prescribed by regulation or as ordered by an inspector.
- (4A) The regulations or orders of an inspector under subsection (4) can extend to the course of action to be taken in respect of artificial breeding material on the land concerned by the owner or occupier of the land or the owner or person in charge of the artificial breeding material.
- (5) The Minister may by notification in the Gazette apply to any specified part of a quarantine area, protected area or protected (control) area special and more drastic provisions than those which may be operating in the rest of the quarantine area, protected area or protected (control) area.
- (6) The Minister may by a like notification direct that any or all stock within a quarantine area, protected area or protected (control) area or within some specified part of a quarantine area, protected area or protected (control) area shall be treated by prophylactic or curative methods for the disease or suspected disease in respect of which the quarantine is imposed or the protected area or the protected (control) area is declared, whether the stock are diseased or infected or not, and in any such notification the Minister may also direct that any or all of such stock shall be submitted, at a specified time or at specified intervals, to any specified test or tests for any disease or suspected disease.

## **15 Quarantine lines**

- (1) The Minister may by notification published in the Gazette declare quarantine lines, and may by the same or a like notification specify the conditions under which stock, any class of stock, or any artificial breeding material, carcass, fodder, fittings or animal products may cross any quarantine line.
- (2) (Repealed)
- (3) The establishment of a quarantine line shall be advertised in such local newspapers as the Minister may direct.

## **Division 2A Control of footrot and other designated diseases**

## 15A Definitions

In this Division:

**designated disease** means footrot or any other disease declared, by order made by the Governor and published in the Gazette, to be a designated disease for the purposes of this Division.

**public place** means any place (other than a road) that is open to the public as of right and without payment of a fee.

**road** means a public road within the meaning of the [Roads Act 1993](#).

**travelling stock reserve** has the same meaning as in the [Rural Lands Protection Act 1998](#).

## 15B Power of Minister to close certain roads, travelling stock reserves and public places

- (1) The Minister may, in the circumstances set out in subsection (2), make an order declaring:
  - (a) all roads, travelling stock reserves and public places, or
  - (b) roads, travelling stock reserves or public places of a specified class or description, located within a specified area to be closed to walking and grazing stock or to walking and grazing stock of a specified class.
- (2) An order under this section may be made whenever the Minister is of the opinion that all or some of the walking or grazing stock referred to in subsection (1) may be infected with a designated disease and could, if allowed to walk over or graze on the roads, travelling stock reserves or public places, or roads, travelling stock reserves or public places of a specified class or description, located within a specified area:
  - (a) cause those roads, reserves or places to become infected with the disease, or
  - (b) cause other stock within the area to become infected with the disease, or
  - (c) where holdings, roads, travelling stock reserves and public places within the area are currently not infected with the disease—expose those holdings, roads, reserves and places to the disease.
- (3) In making such an order, the Minister may, in specified circumstances or subject to specified conditions, exempt stock or stock of a specified class from the operation of the order.
- (4) An order under this section may be made so as to remain in force in respect of a specified area for a period not exceeding 3 months from and including:
  - (a) the day after its publication under subsection (5) or, if an earlier order is still in



force in respect of that area at the time of publication under that subsection, the day after the day on which the earlier order expires, or

(b) if a later day is specified in the order, that later day.

- (5) An order made under this section must be published in an approved newspaper that circulates within the specified area concerned.
- (6) In subsection (5), **approved** means approved by the Director-General.
- (7) The owner of stock to which an order made under this section applies and the person in charge of the stock (if not their owner) must, unless exempted by a provision of the order or unless subsection (8) applies, each ensure that the stock do not walk over or graze on a road, travelling stock reserve or public place that the order declares to be closed.
- (8) If the boundary between a holding and a road or travelling stock reserve has never been fenced, a person who owns or is in charge of stock that are kept on the holding does not fail to comply with subsection (7) merely because the person has failed to ensure that the stock have not walked over or grazed on the road or reserve.
- (9) Subsection (8) applies only if the stock concerned are free of the designated disease and the holding and the part of the road or travelling stock reserve adjoining the holding are not within a quarantine area.

### **15C Effect of closure orders**

- (1) While a closure order under section 15B is in force, all walking stock permits, grazing permits, stock licences and stock holding authorities are suspended as regards the walking or grazing of stock to which the order applies over or on the roads and travelling stock reserves that are affected by the order, except to the extent specified in the order.
- (2) In this section, **walking stock permit**, **grazing permit**, **stock licence** and **stock holding authority** have the same meanings as in the [Rural Lands Protection Act 1998](#).

## **Division 3 Destruction of certain stock**

### **16 Musters**

- (1) At a muster in accordance with the order of an inspector made under the provisions of section 7 the inspector may cause to be branded with an approved brand all the stock mustered.
- (2) When the inspector has so caused the stock to be branded any stock found upon the land within one week of the time of such muster not bearing the appropriate approved brand may be destroyed by an inspector or his or her assistants.

- (3) The occupier of the land upon which such stock are found shall be liable to a penalty not exceeding 1 penalty unit per head of the stock so found not bearing the appropriate approved brand.
- (4) It shall be a defence to any charge under this section if it be shown that the stock so found not bearing the appropriate approved brand have been brought on to or strayed on to the land since the muster.
- (5) In this section, **approved** means approved by the Director-General.

## **17 Power to order destruction**

- (1) An order may be given to a person to destroy or dispose of infected stock or infected artificial breeding material or any carcass, or produce, of infected stock, or fodder or other thing used in connection with infected stock or infected artificial breeding material.
- (2) An order may be given to a person to destroy or dispose of stock or artificial breeding material or any carcass, or produce, of stock, or fodder or other thing used in connection with stock or artificial breeding material, if the stock, artificial breeding material, carcass, produce, fodder or other thing is in a quarantine area, protected area or protected (control) area. For the purposes of this subsection, it does not matter whether the stock or artificial breeding material is infected or not.
- (3) An order under this section may be given:
  - (a) only if the person giving it is satisfied that the destruction or disposal would tend to prevent the spread or occurrence of disease, and
  - (b) only to the owner or person in charge of the stock, artificial breeding material, carcass, produce, fodder or other thing concerned or to any owner or occupier of land on which the stock, artificial breeding material, carcass, produce, fodder or other thing is located, and
  - (c) only by the Minister or a person authorised by the Minister for the purposes of this section.
- (4) Authorisation for the purposes of this section may be granted by the Minister to any one or more of the following:
  - (a) the Director-General,
  - (b) inspectors of a class prescribed by the regulations for the purposes of this paragraph or, if no such class is prescribed, inspectors employed by the Department.
- (5) A person referred to in subsection (4) (a) or (b) cannot give an order under this section unless he or she has in possession a certificate of authorisation signed by the

Minister and shows it on demand to the person to whom he or she gives the order. The certificate may be either an original or a copy made by facsimile transmission.

## **Division 4 Special provision for artificial breeding material**

### **17A Orders to prevent spread of disease in artificial breeding material**

- (1) The Minister may, for the purpose of preventing the spread of disease resulting from the use of artificial breeding material, by order:
  - (a) prohibit the sale or supply, or the use for or in connection with an artificial breeding procedure, of artificial breeding material taken from specified stock, or
  - (b) prohibit the sale or supply, or the use for or in connection with an artificial breeding procedure, of artificial breeding equipment used for or in connection with an artificial breeding procedure involving specified stock or involving artificial breeding material taken from specified stock, or
  - (c) require the owner or person in charge of artificial breeding material taken from specified stock to take specified action in respect of that artificial breeding material, or
  - (d) require the owner or person in charge of artificial breeding equipment used for or in connection with an artificial breeding procedure involving specified stock or involving artificial breeding material taken from specified stock to take specified action in respect of that artificial breeding equipment, or
  - (e) order the owner or person in charge of specified stock to cause the stock to be tested for disease in a specified manner prior to the collection of artificial breeding material from the stock.
- (2) The action that a person can be required to take in respect of artificial breeding material or artificial breeding equipment by an order under this section is any of the following:
  - (a) the testing of the material or equipment in a specified manner,
  - (b) the storing of the material or equipment in a specified manner,
  - (c) the disposal or destruction of the material or equipment in a specified manner,
  - (d) such other action as may be prescribed by the regulations.
- (3) An order under this section can specify stock by reference to individuals or by reference to type, breed, blood line or species of the stock or characteristics of the stock.
- (4) An order under subsection (1):

- (a) may be general or limited in its application to a specified part of the State, and
  - (b) may prohibit an activity absolutely or subject to specified exceptions or to compliance with specified conditions.
- (5) An order under this section is (unless revoked sooner) revoked 6 months after the date on which the order was published in the Gazette.
- (6) Sections 39, 40 and 41 of the *Interpretation Act 1987* apply to an order under this section in the same way as they apply to a statutory rule within the meaning of that Act.

### **17B-17I (Repealed)**

## **Division 5 Further powers of inspectors etc**

### **18 Proceedings in default of compliance**

- (1) Any person upon or to whom an order or notice has been served or given under this Act or the regulations who fails to comply with the requirements thereof shall be deemed to have contravened the provisions of this Act, and whether or not the person has been convicted of that offence such requirements may be carried out by an inspector or inspectors who may employ assistance for such purpose.
- (2) All expenses incurred in so doing, including travelling expenses and a proportionate part of an inspector's salary while so engaged and while travelling for such purposes and the costs of assistance as aforesaid, shall be recoverable from such person in any court of competent jurisdiction.
- (3) The requirements of an order under section 17 for destruction or disposal must not be carried out under this section without the express approval of the Director-General or a person, or a person of a class, prescribed by the regulations for the purposes of this subsection. That approval can only be given in a particular case.

### **19 Power to seize stock etc**

- (1) Where any stock or artificial breeding material have been moved contrary to the provisions of this Act or any regulation, proclamation, notification, undertaking, order, notice or permit made, given or issued under or pursuant to this Act, the stock or artificial breeding material may be seized by an inspector or by a police officer.
- (2) Any stock or artificial breeding material seized under subsection (1) and any stock, artificial breeding material, carcass, fodder or fittings, of which an inspector has taken possession under section 7 (1) (b), may, in the discretion of the Minister, be sold or destroyed after, where necessary, being treated or cleansed.
- (3) The proceeds of any such sale shall, after deducting any expenses incurred in seizing, selling, destroying, treating or cleansing the stock, artificial breeding material,

carcass, fodder or fittings, be disposed of as the Minister may direct.

## **Part 4A**

### **19A-19T (Repealed)**

## **Part 5 Offences**

### **20 Illegal introduction of stock or artificial breeding material**

- (1) A person must not introduce artificial breeding material or stock into the State in contravention of a provision of a proclamation under this Act.
- (2) A person must not sell, assist in selling, offer for sale or attempt to sell artificial breeding material or stock if:
  - (a) the person has reason to believe or ought to know that the artificial breeding material or stock have been introduced into the State in contravention of subsection (1), and
  - (b) the artificial breeding material or stock have been so introduced, and
  - (c) since that introduction an inspector has not authorised the sale of the artificial breeding material or stock.

Maximum penalty:

- (a) 100 penalty units, unless paragraph (b) or (c) applies, or
- (b) 200 penalty units, if at the time of introduction the artificial breeding material or stock are actually diseased, or
- (c) 1 000 penalty units or imprisonment for 6 months, or both, if at the time of introduction the artificial breeding material or stock are actually diseased and as a consequence of the introduction of the artificial breeding material or stock other artificial breeding material or stock in the State become actually diseased.

### **20A Wilful communication of disease**

A person must not wilfully communicate or attempt to communicate any disease to stock, except for such purposes and under such conditions as may be prescribed by the regulations.

Maximum penalty: 500 penalty units.

### **20B Sale of diseased stock**

- (1) A person must not sell stock which the person has reason to believe, or ought to know, are diseased.

Maximum penalty: 200 penalty units.

- (2) This section does not prevent the sale of diseased stock which an order under section 8 (1) (b) requires to be removed either to the place of the sale or to another place from the place of the sale.
- (3) This section does not prevent the sale of stock diseased only with footrot, sheep lice, *Brucella ovis* infection or any other disease declared by the Minister for the purposes of this section (or only with more than one of those diseases), if:
  - (a) the sale is directly to an abattoir for slaughter, or
  - (b) the sale takes place at a sale approved by the Director-General for stock infected only with one or more of those diseases.
- (3A) This section does not prevent the sale of diseased stock to a feedlot that:
  - (a) transports all its stock directly to slaughter, and
  - (b) is authorised in writing by the Director-General as a feedlot to which infected stock may be sold.
- (4) In this section, **sell** includes offer for sale, assist in selling and attempt to sell.

#### **20BA Notice of public sale in quarantine area**

A person must not hold a public sale of stock (even if the stock are not diseased) within a quarantine area if 14 days' notice in writing of the sale has not been given to an inspector.

Maximum penalty: 100 penalty units.

#### **20C Movement of stock and artificial breeding material**

- (1) A person must not move any stock, or cause or permit any stock to be moved:
  - (a) across a quarantine line, unless the movement is in accordance with the conditions specified in the notification declaring the quarantine line, or
  - (b) into a protected area or a protected (control) area, unless the movement is in accordance with such conditions as may be prescribed by the regulations, or
  - (c) into, within or out of a quarantine area or from infected land, or
  - (d) if an inspector has ordered the stock to be tested under section 7 (1) (bii), the stock have not yet been tested in accordance with that order and an inspector has not given permission for the stock to be moved, or
  - (e) otherwise in contravention of this Act or the regulations.

Maximum penalty: 100 penalty units.

- (2) A person must not move any infected stock or cause or permit any infected stock to be moved:
- (a) on, along or across any public road or railway, or
  - (b) in or through any public place, or
  - (c) to, on or across any land (including any stock saleyard, and any travelling stock reserve within the meaning of the *Rural Lands Protection Act 1998*) except on or across land owned or occupied by the owner of the stock.

Maximum penalty: 100 penalty units.

- (3) A person does not commit an offence against this section by doing anything in accordance with a permit under section 7 (6) or an order under section 8 (1) (b) or if the person moves stock when all of the following conditions are satisfied:
- (a) the stock are infected only with footrot, sheep lice, *Brucella ovis* infection or any other disease declared by the Minister for the purposes of this section (or only with more than one of those diseases),
  - (b) the stock are transported in a vehicle directly to an abattoir for the slaughter of the stock or directly to a sale approved by the Director-General for stock infected only with one or more of those diseases.
  - (c) (Repealed)

- (3A) This section does not prevent the movement of infected stock to a feedlot that:
- (a) transports all its stock directly to slaughter, and
  - (b) is authorised in writing by the Director-General as a feedlot to which infected stock may be moved.

- (4) For the purposes of subsection (2) (c), the holder of an authority under the *Rural Lands Protection Act 1998* to walk or graze stock on a travelling stock reserve is not an occupier of that reserve.

- (5) The owner of a vehicle in which infected stock are transported and any person having custody or control of the vehicle are guilty of an offence against this Act if any manure, hair and other matter which is, or can harbour, a disease or disease organism have not been cleaned from the vehicle immediately after the stock have left the vehicle.

Maximum penalty: 20 penalty units.

- (5A) A person is not guilty of an offence under subsection (5) if the person did not know, and could not reasonably be expected to have known, that the stock transported in the vehicle concerned were infected stock.

(6) In this section:

**infected stock** means stock that are infected and includes:

- (a) any infected class of stock, or
- (b) any infected carcass, or
- (c) any fodder, fittings or animal products infected, contaminated or infested with a stock disease.

**stock** includes any class of stock, or any artificial breeding material, carcass, fodder, fittings or animal products.

#### **20D Straying stock**

- (1) If stock are found straying within or out of a quarantine area or within a protected area or a protected (control) area, the owner of the stock and the person from whose charge the stock strayed are both guilty of an offence.
- (2) If infected stock are found straying anywhere, the owner of the stock and the person from whose charge the stock strayed are both guilty of an offence.

Maximum penalty: 100 penalty units.

- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that all reasonable precautions were taken to prevent the stock from straying.

#### **20E Infected carcass not to be left near road, river etc**

A person must not leave the carcass of any infected stock, or cause or permit the carcass of any infected stock to be left:

- (a) on, in, or within 1 kilometre of, a public road or public place, or
- (b) in a river, creek or water-hole.

Maximum penalty: 100 penalty units.

#### **20F Interfering with a quarantine fence, gate or notice**

- (1) A person must not break down, damage or leave open a fence, gate or fastening:
  - (a) that is used for confining stock, or regulating or preventing the movement of stock, and
  - (b) that provides access to, or is within, a quarantine area, protected area or protected (control) area.
- (2) A person must not remove or interfere with a notice displayed by an inspector under this Act, unless the person is an inspector or does so with the authority of an



inspector.

Maximum penalty: 100 penalty units.

**20FA Treatment or seizure of stock etc**

- (1) A person must carry out treatment ordered by an inspector, or prescribed by or under this Act, in accordance with the directions (if any) given to the person by an inspector.
- (2) A person must not remove or attempt to remove a chemical or solution from stock to which it has been applied as part of a treatment ordered by an inspector or prescribed by or under this Act, unless the person is an inspector or does so with the authority of an inspector.
- (3) A person must not recover, attempt to recover, or aid or permit another person to recover or attempt to recover any stock, artificial breeding material, carcass, fodder or other thing which an inspector has detained or taken possession of under this Act, unless the person is an inspector or does so with the authority of an inspector.

Maximum penalty: 100 penalty units.

**20FB Feeding of prohibited substance to stock**

- (1) A person must not feed a prohibited substance to stock or cause or permit stock to feed on a prohibited substance.
- (2) The owner and any person in charge of stock must take all steps that are reasonably practicable to prevent stock from having access to a prohibited substance.
- (3) This section does not apply in relation to stock prescribed by the regulations or in the circumstances (if any) prescribed by the regulations.
- (4) In this section, **prohibited substance** means a substance prescribed by the regulations as a prohibited substance.

Maximum penalty: 100 penalty units.

**20G Person must not deface brand or mark with yellow pigment**

- (1) A person must not alter, deface or remove a brand (or mark) applied to stock under or for the purposes of this Act unless the person is an inspector or does so with the authority of an inspector.
- (2) A person who is not an inspector must not brand or mark stock with yellow pigment.

Maximum penalty: 100 penalty units.

- (3) The prohibition in subsection (1) does not extend to any means of identification applied to stock for the purposes of a scheme of identification established by the

regulations.

## **20H Compliance with proclamations, orders, undertakings etc**

(1) A person must not:

- (a) contravene a provision of a proclamation, order or notification issued or made under this Act, or
- (b) contravene the terms of an order or notice served on or given to the person under this Act, or
- (c) contravene the terms and conditions of an undertaking with which the person is required to comply under section 11, or
- (c1) contravene a condition subject to which the person is, or any stock or artificial breeding material belonging to the person or in the person's charge are, exempt from the operation of an order made under this Act, or
- (d) do anything that is declared by a provision of this Act to be a contravention of this Act.

Maximum penalty: 100 penalty units.

(2) This section does not apply to any act or omission that is an offence under section 20.

## **20I Obstruction**

(1) A person must not:

- (a) assault or threaten an inspector in the exercise of the inspector's powers under this Act, or
- (b) assault or threaten a person assisting an inspector in the exercise of those powers, or
- (c) threaten any person because the person has been questioned by, or who has furnished information or records to, an inspector in the exercise of those powers, or
- (d) impersonate an inspector.

Maximum penalty: 200 penalty units.

(2) A person must not, without reasonable excuse:

- (a) obstruct or hinder an inspector in the exercise of the inspector's powers under this Act, or
- (b) obstruct or hinder a person assisting an inspector in the exercise of those powers,

or

- (c) prevent or attempt to prevent a person from giving information to or being questioned by an inspector acting in the exercise of those powers.

Maximum penalty: 100 penalty units.

## **20J Providing false or misleading information**

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

Maximum penalty: 100 penalty units.

- (2) A person must not, in connection with a sale or disposition or proposed sale or disposition of stock or artificial breeding material, make a statement or provide information in relation to:

- (a) the presence or absence of infection in stock, artificial breeding material, carcasses or land, or
- (b) any matter relevant to an assessment of the likelihood of the exposure of stock or artificial breeding material to infection, or
- (c) any other matter prescribed by the regulations,

that is false or misleading in a material particular.

Maximum penalty: 200 penalty units.

- (2A) A person must not, in or in connection with an arrangement or agreement or proposed arrangement or agreement for the agistment of stock or for the use of land for grazing of stock (including any lease or proposed lease of land for grazing of stock), make a statement or provide information in relation to:

- (a) the presence or absence of infection in stock, carcasses or land, or
- (b) any matter relevant to an assessment of the likelihood of the exposure of stock to infection, or
- (c) any other matter prescribed by the regulations,

that is false or misleading in a material particular.

Maximum penalty: 200 penalty units.

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

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

### **20K Bribery**

A person who, without lawful authority, offers, makes or gives to an inspector a payment, gratuity or present in consideration of the inspector's doing or omitting to do any act or thing relating to the exercise of a function conferred or imposed on an inspector by or under this Act is guilty of an offence.

Maximum penalty: 100 penalty units.

### **20L Proceedings for offences**

- (1) Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone or before the Supreme Court in its summary jurisdiction.
- (1A) Any such proceedings must be commenced not later than 2 years from when the offence was alleged to have been committed.
- (2) If proceedings are brought in a Local Court, the maximum pecuniary penalty that the Local Court may impose for the offence is 100 penalty units or the maximum penalty provided for the offence by this Act or the regulations, whichever is the lesser.

### **20M Proof of matters relating to maximum penalties**

A matter that is relevant to the determination of the maximum penalty applicable to an offence against this Act must be established beyond reasonable doubt.

### **20N Offences by officers of corporations**

- (1) If a corporation contravenes a provision of this Act or the regulations, each officer of the corporation is taken to have contravened the provision if the officer knowingly authorised or permitted the contravention.
- (2) An officer of a corporation may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been proceeded against or convicted under the provision.
- (3) Nothing in this section affects a liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.
- (4) In this section, **officer**, in relation to a corporation, means a director of the

corporation or a person who is otherwise concerned in its management.

## **200 Penalty notices**

- (1) In this section, **prescribed offence** means an offence against this Act or the regulations that is prescribed by the regulations for the purposes of this section.
- (2) An inspector authorised under subsection (3) may serve a penalty notice on a person if it appears to the inspector that the person has committed a prescribed offence.
- (3) The Director-General may in writing authorise an inspector to exercise the power conferred by subsection (2) and may, whenever appropriate, revoke such an authorisation by notice in writing given to the inspector.
- (4) 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 may pay, within the period and to the person specified in the notice, the amount of penalty prescribed by the regulations for the offence if dealt with under this section.
- (5) A penalty notice may be served personally or by post.
- (6) If the amount of penalty prescribed for an alleged offence is paid in accordance with a penalty notice, no person is liable to further proceedings for the alleged offence.
- (7) Payment under this section is not to be regarded as an admission of liability for the purpose of, and is not in any way to affect or prejudice, any civil proceeding arising out of the same occurrence.
- (8) The regulations may do all or any of the following:
  - (a) prescribe an offence for the purposes of this section by specifying the offence or referring to the provision creating the offence,
  - (b) prescribe the amount of penalty payable for the offence if dealt with under this section,
  - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (9) The amount of a penalty prescribed under this section must not exceed the maximum amount of penalty which could be imposed for the offence by a court.
- (10) This section does not limit the operation of any other provision of, or any other provision made under, this or any other Act relating to proceedings that may be taken in respect of offences.

## **Part 6 Miscellaneous**

## **21 Orders and notices generally**

- (1) Where an order or a notice is served or given under this Act by an inspector, the order or notice may, by notice in writing served in accordance with subsection (2), be revoked, or amended, or its effect extended or suspended for any period, by the Director-General or by an inspector authorised by him or her in writing.
- (1A) Subsection (1) does not affect the power of an inspector to revoke or amend an order or notice which that inspector has served or given or to extend or suspend the effect of such an order or notice.
- (2) An order or notice required by this Act or the regulations to be served on any person may be served by leaving the same at the person's usual or last known place of residence or business or may be served personally or by post addressed to the person's last known place of residence or business or in such manner as may be prescribed.

### **21A Evidence of scientific examination**

- (1) The Governor may appoint persons, having such scientific qualifications as the Governor considers appropriate, to make examinations for the purposes of this Act.
- (2) In any proceedings against any person for an offence against this Act or the regulations, a certificate purporting to be signed by a person appointed under subsection (1) and certifying that the person has examined any stock, artificial breeding material, carcass or portion thereof, or any organ or specimen obtained from any stock or carcass, or any material or section derived from any stock, artificial breeding material or carcass or from any such organ or specimen, or any article submitted to the person by the Minister, the Director-General or an inspector, and certifying the result of that examination and any conclusions arrived at by the person as a result of that examination shall, without proof of the signature or appointment of the person signing the certificate, be admissible and be prima facie evidence of the matters certified in the certificate.

### **21B Evidence of appointment of inspectors**

In any proceedings against any person for an offence against this Act or the regulations, a certificate purporting to be signed by the Director-General or by a Deputy Director-General of the Department certifying that a person has been appointed as an inspector under this Act and during any period specified in the certificate held office as an inspector shall be admissible and be prima facie evidence of the matters certified in the certificate.

## **22 Evidence**

- (1) For the purposes of proving in any prosecution or proceeding under this Act or the regulations that any person knew that stock were infected or diseased:

- (a) the fact that stock kept or pastured on any land have been diseased for a period of seven days shall be evidence that at the expiration of such period the occupier of the land or his or her manager, agent, or superintendent knew that the stock were diseased, and
  - (b) the fact that travelling stock have been diseased for a period of two days shall be evidence that at the expiration of that period the person in charge of the stock knew that they were diseased, and
  - (c) the fact that stock have been diseased for a period of seven days shall be evidence that at the expiration of such period the person who during such period was the owner or the person who during such period was in control or charge of the stock, knew that they were diseased.
- (2) In any prosecution for an offence against this Act or any regulation made thereunder, the averment of the prosecutor that the defendant was not at the time of the commission of the alleged offence the holder of a licence, permit, certificate or authority issued under this Act or any regulation made thereunder shall be deemed to be proved in the absence of proof to the contrary.

**22A Protection from liability for providing information or advice**

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

**22B Exclusion of personal liability for information required to be provided under this Act**

- (1) If a person is required under this Act to provide any information, the provision of that information by the person does not subject the person personally to any action, liability, claim or demand.
- (2) Without limiting subsection (1), a person is required to provide information under this Act if:
  - (a) the person is required to answer a question put to the person under this Act, or
  - (b) the person is required to give a notice or other document under this Act, or
  - (c) the person is required to produce a record or other document under this Act.
- (3) Nothing in this section affects the criminal liability of any person under this Act or any other Act or law.
- (4) This section extends to any information that a person was required to provide under this Act that was provided before the commencement of this section, but does not extend to proceedings in respect of the provision of such information that were

brought before that commencement.

## 22C Delegation

(1) 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.

(2) In this section:

**exercise** a function includes perform a duty.

**function** includes a power, authority or duty.

## 23 Regulations

(1) The Governor may make regulations not inconsistent with this Act prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act; and in particular and without limiting the generality of the foregoing power, the Governor may, by regulation:

- (a) prescribe the treatment which shall be applied to any stock or artificial breeding material found by an inspector to be infected or suspected by the inspector of being infected,
- (b) regulate or prohibit the movement of stock or artificial breeding material and persons into, within, and out of, and the taking of things into and out of a quarantine area, protected area or protected (control) area, and regulate the management and control of such areas and of any stock or artificial breeding material therein,
- (c) prescribe and regulate the branding, marking or ear-marking of stock for or in connection with the management or control of disease and make provision for and with respect to schemes of identification of stock (whether on a compulsory or voluntary basis) and the tracing of stock,
- (d) regulate the manner of treatment in pursuance of this Act,
- (e) prescribe, regulate or prohibit the testing, vaccination and inoculation of stock or artificial breeding material, and the use, manufacture, testing, distribution, storage, display or display for sale of vaccines, sera, diagnostic agents and other biological substances used for testing, vaccinating or inoculating stock or artificial breeding material,
- (f) regulate the destruction of stock, artificial breeding material, carcasses, and things in pursuance of this Act,



- (g) (Repealed)
- (h) regulate or prohibit the sending or carriage of cattle ticks, eggs of cattle ticks, skins or hides of diseased or infected stock, vaccines or cultures of the organism of any disease or any organism or thing that may cause or tend to cause the spread of disease,
- (i) prescribe the classification of inspectors and the duties of various classes of inspectors,
- (j) regulate or prohibit the movement of any carcass within a quarantine area, protected area or protected (control) area,
- (k) prescribe the payment of fees for examination and treatment of stock or artificial breeding material by or under the order of or the supervision of an inspector,
- (k1) prescribe the payment of fees for any other service provided under this Act or the regulations,
- (l) provide for the examination, testing and treatment of any stock or artificial breeding material or class of stock or artificial breeding material within a quarantine area, protected area or protected (control) area or any part of any such area,
- (m) require the owners or persons in charge of stock, or persons to or by whom stock is or has been delivered, within a quarantine area, protected area or protected (control) area, or the occupiers of land within a quarantine area, protected area or protected (control) area upon which there are stock, to furnish or otherwise give, in accordance with the regulations and at such times or in such circumstances as are prescribed, notices or returns showing the number and description of the stock and such other particulars as may be prescribed,
- (n) require owners or persons in charge of stock and owners or occupiers of land upon which there are or have been any diseased stock or upon which any diseased or infected stock have travelled to give notice thereof and prescribe the manner of giving such notice,
- (o) provide for the treatment and for the disposal, whether by removal, sale, destruction or otherwise, of any stock, artificial breeding material or carcass seized or taken possession of by an inspector or for the disposal or destruction of stock found straying on unenclosed Crown lands,
- (p) require the closing of any gates on land adjoining the boundary of a quarantine area, a protected area or a protected (control) area,
- (q) prescribe and regulate the forms to be used and the records to be kept under this Act and the regulations,

- (r) prohibit or regulate the taking from stock or artificial breeding material of specimens and regulate the removal or dispatch of specimens taken from stock or artificial breeding material,
- (s) prohibit or regulate the feeding to stock of food refuse of any kind and of any material or substance capable of harbouring any agent causing disease,
- (t) prohibit or regulate the movement of any stock which have been vaccinated or inoculated or treated or tested in respect of any disease or which there is reason to suspect are infected,
- (u)–(z) (Repealed)
- (aa) prohibit or regulate the movement of any stock to, or to or from any land, vehicle or place used or to be used for the sale of stock.

(bb) (Repealed)

(1A)–(2) (Repealed)

(3) A regulation may create an offence:

- (a) for a breach of a provision of a regulation made under subsection (1) (c) with respect to schemes of identification of stock (including any provision prohibiting the removal, alteration or defacement of, or other interference with, any means of identification applied to stock for the purposes of such a scheme), punishable by a penalty not exceeding 100 penalty units, and
- (b) for a breach of any other provision of the regulations, punishable by a penalty not exceeding 50 penalty units.

(3A) (Repealed)

(4) Regulations made under subsection (1) (c) may make provision for or with respect to the levy of contributions, out of rates payable to or other prescribed income of a livestock health and pest authority constituted under the *Rural Lands Protection Act 1998*, toward the maintenance of a register of information kept for the purposes of any scheme of identification of stock.

## **24 Savings, transitional and other provisions**

Schedule 2 has effect.

### **Schedule 1 (Repealed)**

## Schedule 2 Savings, transitional and other provisions

(Section 24)

### Part 1 Preliminary

#### 1 Regulations

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

*Stock Diseases Amendment Act 1995*

*Stock Diseases Amendment Act 1997*

*Stock Diseases Amendment Act 1999*

*Stock Diseases Amendment (Artificial Breeding) Act 2004*

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

### Part 1AA Provision consequent on enactment of **Stock Diseases (Swine Branding) Amendment Act 1981**

#### 1AA Savings provision

- (1) Where the *Swine Branding Act 1940*, an instrument made under that Act or any provision of that Act or of any such instrument is referred to in any other Act or any instrument made under any other Act, the reference is, on and from 1 July 1983, to extend to this Act, as in force for the time being, to any corresponding instrument made under this Act, as so in force, or to any corresponding provision of this Act or of an instrument made under this Act, as so in force.
- (2) This clause is taken to have commenced on 22 April 1981 (the date of assent to the amending Act).

(3) Subclause (1) re-enacts (with minor modifications) clause 10 of Schedule 5 to the amending Act. Subclause (1) is a transferred provision to which section 30A of the *Interpretation Act 1987* applies.

(4) In this clause:

**amending Act** means the *Stock Diseases (Swine Branding) Amendment Act 1981*.

## **Part 1A Provision consequent on enactment of Statute Law (Miscellaneous Provisions) Act 1986**

### **1A Savings provision**

(1) A person holding office as an inspector, or authorised to carry out any or all of the duties and exercise any or all of the powers of an inspector, under this Act, as in force immediately before the commencement of the amending provisions is taken to have been duly appointed as an inspector, or authorised to perform the duties and exercise the powers of an inspector, on that commencement under this Act, as amended by the amending provisions.

(2) This clause is taken to have commenced on 1 May 1986 (the date of commencement of the amending provisions).

(3) Subclause (1) re-enacts (with minor modifications) clause 4 of Schedule 24 to the *Statute Law (Miscellaneous Provisions) Act 1986*. Subclause (1) is a transferred provision to which section 30A of the *Interpretation Act 1987* applies.

(4) In this clause:

**amending provisions** means Schedule 18 to the *Statute Law (Miscellaneous Provisions) Act 1986*.

## **Part 1B Provision consequent on enactment of Stock Diseases (Board of Tick Control) Amendment Act 1988**

### **1B Savings provisions**

(1) The repeal and re-enactment by the amending Act of Part 2 of this Act does not affect the continuity of employment of an inspector referred to in section 5 (10) (as in force immediately before that repeal and re-enactment).

(2) Any right or interest, and any duty or obligation, that was, immediately before 7 October 1988, conferred or imposed on an inspector by virtue of section 5 (9) or (10) continues as if the amending Act had not been enacted.

(3) This clause is taken to have commenced on 7 October 1988 (the date of commencement of the amending Act).

(4) Subclauses (1) and (2) re-enact (with minor modifications) section 4 (2) and (3) of the amending Act. Subclauses (1) and (2) are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

(5) In this clause:

**amending Act** means the *Stock Diseases (Board of Tick Control) Amendment Act 1988*.

## **Part 2 Provisions consequent on the enactment of the *Stock Diseases Amendment Act 1995***

### **2 Definition**

In this Part, **1995 Act** means the *Stock Diseases Amendment Act 1995*.

### **3 Inspectors**

A person who was an inspector immediately before section 6 (1) was replaced by the 1995 Act continues in office as if the person had been appointed under that subsection (as so replaced).

### **4 Occupier's notice as to diseased stock**

- (1) A notice given in accordance with section 9 before the amendment of that section by the 1995 Act is taken to have been given in accordance with section 9 as so amended.
- (2) If, before the amendment of section 9 by the 1995 Act, a person complied with that section to the extent of providing verbal notice by virtue of section 9 (4), that section is taken to continue in force in relation to that notice as if it had not been so amended until the time for confirming the notice would have elapsed had the section not been so amended.

### **5 Notice to stop vehicle**

A type of traffic sign that, immediately before the amendment of section 12A by the 1995 Act, was a prescribed type of traffic sign under that section is taken to have been approved by the Chief, Division of Animal Industries on the day when that amendment commenced.

### **6 Notice to fence land**

- (1) A requirement in force under section 13 immediately before the amendment of that section by the 1995 Act and contained in a notification published in the Gazette continues in force on and from the commencement of that amendment as if it had been contained in a notice under section 13 as so amended.
- (2) Any stock specified in such a notification is taken to have been specified as a class of

stock for the purposes of the notice.

- (3) When a requirement in a notification continues in force as a requirement in a notice, the notice is taken to specify a reasonable time from the time when the notification was published as the time for the fencing to be carried out.
- (4) An order given by notice by an inspector, and in force, under section 13 before the amendment of that section by the 1995 Act continues in force under that section as so amended on and from the commencement of that amendment.
- (5) On and from that commencement, the time specified in an order saved under subclause (4) is taken to run from the day when that order was given before the commencement.

## 7 Destruction order

An order by the Minister in force under section 17 immediately before the replacement of that section by the 1995 Act continues in force under section 17 as so replaced.

## Part 3 Provisions consequent on the enactment of the [Stock Diseases Amendment Act 1997](#)

### 8 Definitions

In this Part:

**amending Act** means the [Stock Diseases Amendment Act 1997](#).

**returning officer** means:

- (a) the Electoral Commissioner for New South Wales, or
- (b) a person nominated by the Electoral Commissioner for the purpose of exercising the functions of a returning officer.

**stock owner member** means a member of the Board of Tick Control elected under section 5 (5) (c).

### 9 Any election in progress when the amending Act commences is discontinued

- (1) Any election for one or more stock owner members that is in progress on the date of assent to the amending Act is discontinued on that date, by force of that Act.
- (2) For this purpose, an election is taken to be in progress if the returning officer has given notice of the election under clause 16 of the [Stock Diseases \(Nominations and Elections\) Regulation 1995](#) but the election has not been finally determined.

#### **10 Appointment of existing Board members unaffected**

- (1) Nothing in the amending Act affects the validity of the election of any person holding office as a stock owner member immediately before the date of assent to the amending Act.
- (2) The term of office of every member of the Board of Tick Control (including any stock owner member) who held office immediately before the date of assent to the amending Act is (despite clauses 3 and 5 (1) (b) of Schedule 1) continued for 4 months longer than the period specified in the member's instrument of appointment.
- (3) Such a member continues to hold office until his or her period of office (as extended by subclause (2)) ends, unless his or her office is vacated, in accordance with clause 5 of Schedule 1 (clause 5 (1) (b) excepted) before that extended period ends.

#### **11 Existing electoral districts operative**

- (1) The electoral districts constituted by an order in force under the *Stock Diseases (Nominations and Elections) Regulation 1995* immediately before the date of assent to the amending Act are operative for any election of stock owner members that occurs after that date.
- (2) Nothing in this clause prevents the Minister from making any order amending or revoking any such order.

### **Part 4 Provisions consequent on enactment of [Stock Diseases Amendment Act 1999](#)**

#### **12 Protection from liability for providing information or advice**

Section 22A applies to the provision of information or advice before or after the commencement of that section.

### **Part 5 Provisions consequent on enactment of [Stock Diseases Amendment \(Artificial Breeding\) Act 2004](#)**

#### **13 Saving of proclamations**

- (1) A proclamation in force under section 4 immediately before the substitution of that section by the *Stock Diseases Amendment (Artificial Breeding) Act 2004* is taken to have been made under that section as substituted.
- (2) Such a proclamation is taken to constitute a declaration under section 4 (a) of a disease in stock, so as to distinguish it from a proclamation under section 4 (b) of a disease in artificial breeding material.

#### **14 Licences**

- (1) On the repeal of the *Stock (Artificial Breeding) Act 1985*, any licence in force under that Act is cancelled.
- (2) Any fee paid in connection with the issue of such a licence is not refundable, either in whole or in part.
- (3) A person who was the holder of a licence cancelled under this clause must, if directed to do so in writing by the Director-General, return the licence to the Director-General within the period specified in the direction.

Maximum penalty: 20 penalty units.

### **Part 6 Provisions consequent on enactment of *Statute Law (Miscellaneous Provisions) Act (No 2) 2004***

#### **15 Continuity of things done by Chief, Division of Animal Industries**

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

### **Part 7 Provisions consequent on enactment of the *Statute Law (Miscellaneous Provisions) Act (No 2) 2007***

#### **16 Abolition of Board of Tick Control**

- (1) The Board of Tick Control is abolished.
- (2) A person who ceases to hold office as a member of the Board of Tick Control because of its abolition is not entitled to any remuneration or compensation because of the loss of that office.

#### **17 Approvals of Chairperson of the Board of Tick Control**

An approval given by the Chairperson of the Board of Tick Control under section 7 or 18 before the amendment of those sections by the *Statute Law (Miscellaneous Provisions) Act (No 2) 2007* is taken, on that amendment, to have been given by the Director-General.