

Stock Foods Act 1940 No 19

[1940-19]



New South Wales

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Provisions in force

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

Notes—

- **Previously named**
Stock Foods and Medicines Act 1940
- **Does not include amendments by**
[Statute Law \(Miscellaneous Provisions\) Act 2010 No 59](#) (not commenced — to commence on 9.7.2010)

Authorisation

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Stock Foods Act 1940 No 19



New South Wales

An Act to regulate the sale of food for stock; and for other purposes.

Part 1 Preliminary

1 Name of Act and commencement

- (1) This Act may be cited as the *Stock Foods Act 1940*.
- (2) This Act shall commence on a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2 (Repealed)

3 Definitions

In this Act:

Agvet Code means the *Agvet Code of New South Wales*.

Agvet Regulations means the *Agvet Regulations of New South Wales*.

analyst means a person authorised under section 20 to be an analyst for the purposes of this Act.

animal has the same meaning as in the Agvet Code.

block or **lick** has the same meaning as in the Agvet Regulations.

Director-General means the Director-General of the Department of Agriculture holding office as such under Part 2 of the *Public Sector Management Act 1988*.

food-producing species has the same meaning as in the Agvet Code.

foreign ingredient means any substance, or other thing, that is declared by the regulations to be a foreign ingredient.

inspector means a person authorised under section 20 to be an inspector for the purposes of this Act.

medicated stock food has the same meaning as medicated stockfood in the Agvet Regulations.

package includes anything in which a stock food or stock food supplement is cased, covered, enclosed, contained or packed.

premix has the same meaning as in the Agvet Regulations.

stock means any animal that is prescribed by the regulations as stock for the purposes of this Act.

stock food has the same meaning as stockfood in the Agvet Regulations and also includes any block, lick, premix, stockfood supplement and any substance prescribed by the regulations as stock food, but does not include any stock medicine and does not include any substance that is intended to be fed to animals other than stock or any substance prescribed by the regulations as not being a stock food.

stock medicine means a stock medicine registered under the [Stock Medicines Act 1989](#).

stockfood supplement has the same meaning as in the Agvet Regulations.

supply has the same meaning as in the Agvet Code.

veterinary chemical product has the same meaning as in the Agvet Code.

Part 2 Stock foods

4-5C (Repealed)

6 Packages of stock food and supplement to be labelled

(1) A person must not in the course of carrying on any business supply any of the following stock foods in a package unless the package has on it, or on a label securely and conspicuously attached to it, the particulars required by the regulations:

- (a) stock food for any stock (whether or not food-producing species or horses),
- (b) stock food supplement for any stock (whether or not food-producing species or horses).

Maximum penalty: 50 penalty units or, for an offence by a body corporate, 100 penalty units.

(2) This section does not apply to a supply by retail of a portion of the contents of a package labelled as required by this section when the supply is without alteration of, or addition to, that portion of the contents.

(3) This section applies to anything supplied in the form of a block as if the block were a package.

6A Supplier of bulk stock foods to provide customer with information statement

- (1) A person who in the course of carrying on any business supplies to another person any stock food in bulk must at the time of delivery provide to the person who takes delivery of the stock food a written statement about the stock food that complies with the regulations.

Maximum penalty: 50 penalty units or, for an offence by a body corporate, 100 penalty units.

- (2) The regulations may make provision for or with respect to the form of and the matters to be specified in the statement required by this section.
- (3) For the purposes of this section, stock food is supplied in bulk whenever it is supplied otherwise than in a package. However, this section does not apply to a supply by retail of a portion of the contents of a package labelled as required by section 6 when the supply is without alteration of, or addition to, that portion of the contents.
- (4) Stock food supplied in the form of a block is taken not to be a supply of stock food in bulk.
- (5) The written statement required by this section need not be a separate statement and can be included as part of an invoice.

7 Restrictions on foreign ingredients

- (1) The regulations may prescribe the proportion or amount of any foreign ingredient that may be contained in stock food. A proportion or amount so prescribed for a foreign ingredient is the maximum allowable proportion or amount of the foreign ingredient for the purposes of this section.
- (2) The Minister may by order published in the Gazette set the proportion or amount of a foreign ingredient that may be contained in a stock food (whether or not a maximum allowable proportion or amount of the foreign ingredient is prescribed by the regulations).
- (3) A proportion or amount set by an order in force under this section applies as the maximum allowable proportion or amount of the foreign ingredient for the purposes of this section and so applies instead of any proportion or amount prescribed by the regulations (to the extent of any inconsistency between what is prescribed by the regulations and what is set by the order).
- (4) A person must not in the course of carrying on any business supply to another person a stock food that contains more than the maximum allowable proportion or amount of a foreign ingredient.

Maximum penalty: 50 penalty units or, for an offence by a body corporate, 100 penalty units.

- (5) A regulation or order under this section can be made so as to apply to all stock food, to a particular kind of stock food, to stock food for a particular species, or to a particular kind of stock food for a particular species.
- (6) An order under this section commences on the date it is published in the Gazette or on such later date as may be specified in the order for its commencement and remains in force for 60 days after it commences unless it is repealed sooner.
- (7) An order cannot be made under this section if it is wholly or partially to the same or substantially the same effect as a previous order under this section that commenced less than 6 months before the later order would commence.

8 Addition of veterinary chemical products to stock foods

- (1) The regulations may make provision for or with respect to regulating or prohibiting the incorporation of a veterinary chemical product in a stock food to produce a medicated stock food.
- (2) A person must not in the course of carrying on any business supply a medicated stock food that incorporates a veterinary chemical product in contravention of the regulations.

Maximum penalty: 50 penalty units or, for an offence by a body corporate, 100 penalty units.

9–11 (Repealed)

11A Withdrawal of stock food from supply

- (1) The Minister, or any person authorised by the Minister either generally or specifically for the purposes of this section, may, by notice in writing served on any person, order that person to withdraw from supply any stock food which is or appears to the Minister or that authorised person, as the case may be, to be unfit for use as a stock food.
- (2) An order made under subsection (1) shall remain in force until:
 - (a) where the order was made by the Minister—the Minister by instrument in writing withdraws the order, or
 - (b) where the order was made by an authorised person—the Minister or that person by instrument in writing withdraws the order.
- (3) A person who has been served with an order under subsection (1) shall not, while the order is in force, supply any stock food to which the order relates.

Maximum penalty: 50 penalty units or, for an offence by a body corporate, 100 penalty units.

Part 3

12-19A (Repealed)

Part 4 General provisions

20 Authorisation of inspectors and analysts

- (1) The Director-General may, by order in writing, authorise:
 - (a) a member of the Public Service or of the Public Service of the Commonwealth or a member of the Police Force to be an inspector for the purposes of this Act, and
 - (b) any person who has such experience and qualifications as the Director-General considers sufficient to be an analyst for the purposes of this Act.
- (2) The Director-General shall not delegate the power to make orders under this section.
- (3) Any person who, immediately before the commencement of this subsection, was an inspector or an analyst within the meaning of this Act shall, on that commencement, be deemed to have been authorised to be an inspector, or an analyst, for the purposes of this Act, by an order made under this section.
- (4) An analysis for the purposes of this Act may be carried out by a person acting under the supervision of an analyst and, in any such case, the analysis is to be taken to have been carried out by the analyst.

21 Powers of inspectors

- (1) Any inspector may, with or without assistance, do any one or more of the following:
 - (a) enter and search any land, building, premises or place which the inspector has reasonable grounds for believing is used for the making, manufacture, supply, storage, delivery or preparation for supply of any stock food,
 - (b) enter and search any vehicle, ship, vessel, aeroplane or other means of transport which the inspector has reasonable grounds for believing is used for the conveyance of any stock food in the course of trade, supply or delivery,
 - (b1) require any person that the inspector finds on any such land, building, premises, place, vehicle, ship, vessel, aeroplane or other means of transport and whom the inspector believes on reasonable grounds to be involved in the making, manufacture, supply, storage, delivery, preparation for supply, or conveyance of any stock food, to state his or her full name and residential address,
 - (b2) require the production of, inspect, and take copies of or extracts from, any record the keeping of which is required by this Act, the regulations or the terms of a permit or order issued under this Act,

- (c) examine any stock food found upon such land, building, premises, place, vehicle, ship, vessel, aeroplane or other means of transport and open any package containing any such stock food,
 - (d) take for analysis or examination samples of any such stock food without payment. The quantity and nature of samples and the proportion of the bulk from which such samples are to be taken shall be as prescribed,
 - (e) seize, or seize and remove, any substance or article that the inspector believes on reasonable grounds to be a stock food and any container in which the substance or article is being kept or conveyed if the inspector suspects on reasonable grounds that there has been a contravention of this Act or the regulations in respect of the substance or article,
 - (e1) (Repealed)
 - (f) weigh, count, measure, gauge or mark any such stock food or any package containing the same so seized, and fasten, secure or seal the same and any door or opening giving access to the same.
- (2) Where any stock food is taken for analysis or examination:
- (a) the inspector shall forthwith divide the samples into approximately three equal parts: Provided that when any such stock food is made up in packages, three of such packages may be taken and dealt with as if they were the three parts obtained by dividing the sample,
 - (b) seal or fasten each such part in such manner as its nature permits,
 - (c) place or affix to each part a label stating the name so far as is known to the inspector of the occupier of or person apparently in occupation of the place or of the person apparently having possession, custody or control of the lot from which such sample was taken and the time and place of taking,
 - (d) sign the label on each part and submit it for signature by the person mentioned in paragraph (c) who may, if the person so desires, sign it,
 - (e) deliver one of such parts to the person mentioned in paragraph (c), retain one of such parts, and deliver the remaining part to an analyst for analysis.
- (3) Delivery to an analyst, as referred to in subsection (2) (e), shall be effected personally by the inspector concerned or in such other manner as may be prescribed.
- (4) The part of a sample retained by an inspector in accordance with subsection (2) (e) shall be dealt with as prescribed.

22 Retention and disposal of seized property

- (1) In this section, **prescribed period**, in relation to any substance, article or container seized under section 21 (1) (e), means:
 - (a) the period of 12 months commencing from the time of seizure of the substance, article or container, or
 - (b) any other period fixed by the Local Court in relation to the substance, article or container upon application by or on behalf of the Minister in the prescribed manner.
- (2) During the prescribed period any substance, article or container seized under section 21 (1) (e):
 - (a) may be retained, or
 - (b) unless during that period the substance, article or container has been forfeited to the Crown under section 26, may be returned to the person from whom it was seized.
- (3) At the expiration of the prescribed period, a substance, article or container seized under section 21 (1) (e) is to be returned to the person from whom it was seized, or to the person who appears to the Director-General to be its owner, unless:
 - (a) it was, during that period, forfeited to the Crown under section 26, or
 - (b) the Director-General causes a notice to be advertised in the prescribed manner before the expiration of the prescribed period to the effect that application will be made on a specified day that occurs after the expiration of the prescribed period for forfeiture to the Crown of the substance, article or container.
- (4) Where a notice is advertised under subsection (3), the substance, article or container to which the advertisement relates, as soon as practicable after the day specified in the advertisement, is to be returned to the person from whom it was seized, or to the person who appears to the Director-General to be the owner, unless the substance, article or container is forfeited to the Crown.

23 Tampering with samples

Any person who improperly tampers with any sample or part of a sample taken under this Act shall be guilty of an offence against this Act.

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

24 Inspector may demand information

- (1) An inspector may at any time require a person to whom any stock food has been supplied or a person who has supplied any stock food:

- (a) to state the name and address of the person who supplied the stock food or to whom the stock food was supplied, or
 - (b) to furnish such other information in connection with the supply of the stock food as the inspector may reasonably require, or
 - (c) to produce to the inspector any invoice, agreement, statement, circular or advertisement given or received in connection with the supply of the stock food and permit the inspector to inspect, and take copies of or extracts from, any such invoice, agreement, statement, circular or advertisement.
- (2) Any person who withholds any such information or who fails without lawful excuse to produce such invoice, agreement, circular or advertisement shall be guilty of an offence against this Act.

25 Certificate of analyst to be evidence

- (1) Any analyst who analyses any stock food submitted for analysis in pursuance of this Act may give a certificate as to the result of the analysis.
- (2) In any legal proceedings under this Act or the regulations the production of a certificate purporting to be signed by an analyst shall be prima facie evidence of the identity of the stock food analysed and of the result of the analysis without proof of the signature of the person appearing to have signed the certificate.

26 Forfeiture of stock foods

- (1) If a person is convicted of an offence against this Act or the regulations, the court may order forfeiture to the Crown of any stock food to which the conviction relates. Such forfeiture may extend to the whole of the stock food as the case may be and to the whole of any similar article and to all packages containing any similar stock food belonging to the defendant or in the defendant's possession at the time of committing the offence.
- (2) All stock foods forfeited under this Act shall be disposed of as the Minister may direct.

27 Costs of analysis

In the case of any conviction under this Act in respect of any stock food which has been analysed by an analyst in pursuance of this Act, the court may award the reasonable expenses of and in connection with the analysis against the defendant as part of the costs of the prosecution.

28 Obstruction of inspectors

- (1) A person must not:
 - (a) prevent, delay, obstruct or hinder an inspector from or in the execution or

performance of the inspector's powers, authorities, duties and functions under this Act, or

- (b) fail to comply with a requirement of an inspector under this Part to the extent that the person is capable of complying with it.

Maximum penalty: 50 penalty units or, for an offence by a body corporate, 100 penalty units.

- (2) A person is not guilty of an offence under this section in respect of a failure to comply with a requirement of an inspector to state the person's full name and residential address unless it is established that at the time of making the requirement concerned the inspector informed the person that it is an offence to fail to comply with the requirement.

29 Interference with official marks or seals

If any person, who is not authorised so to do, removes, erases, alters, breaks or opens any mark, seal or fastening placed by an inspector upon any stock food or upon any door or opening affording access to the same, the person shall be guilty of an offence against this Act.

Maximum penalty: 50 penalty units.

30 Retaking of seized stock foods etc

Any person who retakes or attempts to retake any article seized under this Act or ordered to be forfeited under this Act shall be guilty of an offence against this Act.

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

31 Penalty for offences

Any person who is guilty of an offence against this Act or the regulations thereunder shall where no other penalty is expressly provided therefor be liable to a penalty not exceeding 50 penalty units.

32 Recovery of penalties

- (1) Penalties imposed by this Act or the regulations shall be recoverable in a summary manner before the Local Court.
- (2) Proceedings for an offence against this Act or the regulations may be commenced by information laid within 12 months after the time when the offence is alleged to have been committed.

32A Penalty notices

- (1) An authorised officer may serve a penalty notice on a person if it appears to the

officer that the person has committed an offence against this Act or the regulations, being an offence prescribed by the regulations as a penalty notice offence.

- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person can pay, within the time and to the person specified in the notice, the amount of the penalty prescribed by the regulations for the offence if dealt with under this section.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, and does not in any way affect or prejudice, any civil claim, action or proceeding arising out of the same occurrence.
- (6) The regulations may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence, and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section, and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) The amount of a penalty prescribed under this section for an offence is not to exceed the maximum amount of penalty that could be imposed for the offence by a court.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (9) In this section, **authorised officer** means any of the following:
 - (a) an inspector,
 - (b) a person of a class prescribed by the regulations as a class of persons who may issue penalty notices under this section.

33 Certificate not to be disputed unless notice given

- (1) Where a copy of a certificate given by an analyst under this Act has been served upon a defendant who is charged with the commission of an offence against the provisions of this Act or the regulations it shall not be competent for the defendant upon the hearing of the charge to dispute the accuracy of any statement contained in the certificate unless within seven clear days after service upon the defendant of the copy of the certificate the defendant has notified the Director-General by letter forwarded

by registered post that the accuracy of the certificate will be disputed at the hearing of the charge.

- (2) Service of the copy of a certificate may be proved in the same manner as service of the summons.

34 (Repealed)

35 Regulations

- (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.
- (2) In particular and without prejudice to the generality of subsection (1) the Governor may make regulations in respect of the following matters:
- (a) (Repealed)
 - (b) prescribing standards for stock foods,
 - (b1) regulating or prohibiting the supply of stock foods,
 - (b2) regulating or prohibiting the provision or administration or application of stock foods for or to stock,
 - (b3) regulating or prohibiting the introduction of stock foods into the State,
 - (b4) regulating or prohibiting the advertising of stock foods or their uses or the dissemination, otherwise than by advertising, of information concerning stock foods or their uses,
 - (c)–(e) (Repealed)
 - (f) prescribing the fees to be paid under this Act and the regulations,
 - (g) prescribing methods of analysis for any stock food.
- (3) The regulations may prescribe a penalty not exceeding 10 penalty units for any breach thereof.
- (3A) A provision of a regulation may:
- (a) apply generally or be limited in its application by reference to specified exceptions or factors,
 - (b) apply differently according to different factors of a specified kind, or
 - (c) authorise any matter or thing to be from time to time determined, applied or

regulated by any specified person or body,
or may do any combination of those things.

(3B) (Repealed)

(4) The regulations may apply, adopt or incorporate, with or without modification the provisions of any other law, or of any publication as in force on a specified day or as in force for the time being.

36 (Repealed)

37 Service of notices

- (1) A notice under this Act may be served on a person:
- (a) by delivering it personally to that person,
 - (b) by delivering it to the place last known to the Director-General as that person's place of abode or business and by leaving it there with some person for that person, or
 - (c) subject to subsection (2), by posting it in an envelope duly stamped and addressed to that person at the place last known to the Director-General as that person's place of abode or business.
- (2) Where a notice is served as referred to in subsection (1) (c), the notice shall be deemed to have been served at such time after the posting of the notice as is prescribed or, where no such time is prescribed, at the time when the notice would be delivered in the ordinary course of post.

38 Delegation by Director-General

- (1) The Director-General may delegate to a person the exercise of any of the functions of the Director-General under this Act, other than this power of delegation.
- (2) A delegation under this section:
- (a) shall be in writing,
 - (b) may be general or limited, and
 - (c) may be revoked, wholly or partly, by the Director-General.
- (3) A delegate is, in the exercise of a function delegated under this section, subject to such conditions as are specified in the instrument of delegation.
- (4) A function delegated under this section, when exercised by the delegate, shall be deemed to have been exercised by the Director-General.

- (5) A delegation under this section does not prevent the exercise of a function by the Director-General.
- (6) A function purporting to have been exercised by a delegate under this section shall, until the contrary is proved, be deemed to have been duly exercised by a delegate under this section.
- (7) In this section:
 - (a) a reference to a function includes a reference to a power, an authority and a duty, and
 - (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

39 Savings and transitional provisions

Schedule 1 has effect.

Schedule 1 Savings and transitional provisions

(Section 39)

Part 1 General

1 Savings and transitional regulations

- (1) The regulations may include provisions of a savings or transitional nature consequent on the enactment of the following Acts:
 - Stock Foods Amendment Act 1996*
- (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 from a later date.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Stock Foods and Medicines (Amendment) Act 1986

2 Definition

In this Schedule, **amending Act** means the *Stock Foods and Medicines (Amendment) Act 1986*.

3 Savings relating to the Board

Any act, matter or thing done by the Board, as constituted before the commencement of the amending Act, shall be deemed to have been done by the Board, as constituted after that commencement.

4 Saving relating to certain stock foods

- (1) A manufactured stock food with medicinal properties which, immediately before the commencement of the amending Act, was registered under section 5A shall be deemed to have been registered (when it was registered as a stock food) under section 15 as a stock medicine.
- (2) The regulations may make provisions for or with respect to the application of this Act to a manufactured stock food to which subclause (1) applies.
- (3) Subclauses (1) and (2) cease to have effect on the expiration of the registration period current at the commencement of the amending Act.

5 Saving of certificates under section 25

A certificate given under section 25 by an analyst or bacteriologist before the commencement of the amending Act shall be deemed to be a certificate given under that section, as amended by the amending Act, by an analyst.

6 Saving of certain regulations

A regulation which, immediately before the commencement of the amending Act:

- (a) prescribed a form for the purposes of section 25, or
- (b) prescribed a penalty for a breach of a regulation,

shall be deemed to have been made under this Act, as amended by the amending Act.

7 Saving of awards under section 27

An award made under section 27 by a Court before the commencement of the amending Act shall be deemed to be an award made under that section, as amended by the amending Act, by the Court.

Part 3 Stock Foods Amendment Act 1996

8 Meaning of “1996 Amending Act”

In this Part:

1996 Amending Act means the [Stock Foods Amendment Act 1996](#).

9 Retention and disposal of seized property

The amendment made to section 22 by the 1996 Amending Act does not apply to anything seized before the commencement of the amendment.

10 Forfeiture of stock foods

The amendment made to section 26 by the 1996 Amending Act does not apply in respect of an offence committed before the commencement of the amendment.