Stock Medicines Act 1989 No 182

[1989-182]

New South Wales

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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**
  Stock Medicines Amendment Act 2004 No 89, Sch 1 [21] (not commenced).
  Biosecurity Act 2015 No 24 (not commenced — to commence on 1.7.2017)
  Statute Law (Miscellaneous Provisions) Act 2017 No 22 (not commenced — to commence on 7.7.2017)

Authorisation

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Stock Medicines Act 1989 No 182

New South Wales

Contents

Stock Medicines Act 1989 No 182

New South Wales

An Act relating to medicines for stock and other animals for the purposes of enhancing the quality of agricultural production, protecting the environment and safeguarding the health of stock and other animals; and for other purposes.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Stock Medicines Act 1989*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

2A Primary objects of Act

The primary objects of this Act are as follows:

(a) to protect human health by intervening early in the agricultural production process, in particular, to ensure that illegal or unsafe levels of chemical residues do not transfer to the human food chain by their excessive presence in food producing animals,

(b) to facilitate international trade by supporting initiatives to ensure that livestock and meat products destined for export markets comply with the chemical residue requirements of international trading partners,

(c) to protect the welfare of animals treated with stock medicines.

3 Definitions

(1) In this Act:

Agvet Code means the provisions applying because of section 5 of the *Agricultural and Veterinary Chemicals (New South Wales) Act 1994*.

analyst means a person for the time being authorised under section 49 to be an analyst for the purposes of this Act.

Director-General means the Director-General of the Department of Industry and

Investment.

food producing species means stock that produces food for human consumption or is used as food for human beings, and includes:

(a) any buffalo, cattle, deer, fish (other than ornamental fish), goat, kangaroo, pig, poultry, rabbit, sheep, bee, crustacean or mollusc, or

(b) any other type or species of stock prescribed by the regulations for the purposes of this definition.

Note—

The definition of ***food producing species*** is modelled on the definition in the Agvet Code.

inspector means a person for the time being authorised under section 48 to be an inspector for the purposes of this Act.

major food producing species means:

(a) cattle, sheep, pigs or chickens, or

(b) any other type or species of stock prescribed by the regulations for the purposes of this definition.

package includes anything in or by which any stock medicine is covered, enclosed, contained or packed.

permit means a permit under section 32 that is in force.

pest has the same meaning as in the Agvet Code.

prescribe, in relation to a stock medicine, means the giving by a veterinary practitioner of a written instruction to a person for the supply to that person of the stock medicine (or the supply of stock food treated with the stock medicine):

(a) by a pharmacist, or

(b) by a person licensed or authorised under the *Poisons and Therapeutic Goods Act 1966* to supply a restricted substance that is a stock medicine.

registered human pharmaceutical means a therapeutic good (as defined in the *Therapeutic Goods Act 1989* of the Commonwealth) that is listed or registered in the Australian Register of Therapeutic Goods maintained under that Act.

registered stock medicine means a stock medicine that has registration under the Agvet Code.

sell includes do, or cause or permit the doing of, any of the following:

(a) expose for sale,

(b) send or deliver for sale or on sale,

(c) dispose of under a hire purchase agreement,

(d) exchange,

(e) offer to do an act that would be a sale (including an act referred to in any of the above paragraphs),

and, for example, includes supply under a contract for work or labour that also involves the supply of any thing.

stock has the same meaning as animal in the Agvet Code.

stock medicine—see section 3A.

substance has the same meaning as in the Agvet Code.

supply includes do, or cause or permit the doing of, any of the following:

(a) sell,

(b) give,

(c) offer to do an act that would be a supply (including an act referred to in any of the above paragraphs).

tag means a tag attached to stock in accordance with the requirements of the provisions of the *Stock Diseases Act 1923* or any regulations made under that Act relating to the identification of stock.

veterinary practitioner has the same meaning as in the *Veterinary Practice Act 2003*.

withholding period, in relation to a stock medicine, means the minimum period which should elapse between the last administration of the stock medicine and:

(a) the slaughter for human consumption of an animal to which the stock medicine has been administered, or

(b) the harvesting of wool, fibre, milk or eggs or the release of honey for human consumption from an animal to which the stock medicine has been administered.

(2) In this Act, references to stock include references to individual members of any species or class of stock.

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

3A Definition of "stock medicine"

(1) In this Act, ***stock medicine*** has the same meaning as veterinary chemical product in the Agvet Code, except as provided by this section.

(2) ***Stock medicine*** also includes a substance or mixture of substances that is:

(a) prepared by a pharmacist in accordance with the instructions of a veterinary practitioner, or

(b) prepared by a veterinary practitioner in the course of the practice of his or her profession.

(3) ***Stock medicine*** does not include a veterinary chemical product (within the meaning of that Code) that:

(a) is represented as being suitable for, or is manufactured, supplied or used for, the external control of ectoparasites of stock, and

(b) is concentrated and requires dilution or mixing in water before use,

unless it is prescribed by the regulations to be a low-risk veterinary chemical product.

4, 5 (Repealed)

6 Activities authorised under Poisons and Therapeutic Goods Act 1966

A person does not commit an offence against this Act if the act or omission which would (but for this section) constitute the offence is authorised by or under the *Poisons and Therapeutic Goods Act 1966*.

6A Application of Agvet Code to veterinary practitioners and persons acting under the instructions of veterinary practitioners

(1) The object of this section is to expressly permit veterinary practitioners, and persons acting under the instructions of veterinary practitioners, to do things that other provisions of this Act impliedly permit them to do, and so to exempt them from certain offences arising under Part 4 of the Agvet Code.

(2) For the purposes of section 73 of the Agvet Code, it is declared that a veterinary practitioner is permitted to do anything:

(a) that constitutes an offence under this Act, or

(b) that would constitute such an offence (but for regulations under the *Agricultural and Veterinary Chemicals (New South Wales) Act 1994* suspending provisions of this Act),

if the provision giving rise to the offence expressly excludes the veterinary practitioner from the application of that provision.

(3) Subsection (2) does not exempt a person from the requirements of any other Act or law.

(4) In this section:

do includes omit to do.

veterinary practitioner includes a person acting under the instructions of a veterinary practitioner.

Part 2

7–31 (Repealed)

Part 3 Permits and other authorisations

32 Permits

(1) The Director-General may issue a permit to do or omit to do any one or more things the doing or omission of which would, but for the issue of the permit and the operation of section 33, constitute an offence against this Act or the regulations.

(2) The Director-General may not issue a permit under this section unless it specifies:

(a) the person to whom it is issued, and

(b) the stock medicine or class of stock medicines in respect of which it is issued, and

(c) the purpose for which it is issued.

(3) A permit is subject to any term or condition that the Director-General thinks fit to impose and is specified in the permit.

(4) A permit remains in force, subject to any condition relating to its duration specified in it, until it is cancelled by the Director-General by written notice served on the permit holder.

33 Effect of permit

(1) A permit applies to:

(a) the person to whom the permit was issued, and

(b) any employee of that person acting in the course of his or her employment by that person, and

(c) if that person is a corporation—any person acting in his or her capacity as a director of the corporation.

(2) A person to whom a permit applies may, if he or she complies with the terms and

conditions to which the permit is subject:

(a) do or omit to do anything in relation to a stock medicine or stock medicines of a class that the permit authorises to be done or omitted to be done, and

(b) have such a stock medicine in his or her possession or custody,

without contravening this Act or the regulations.

34, 35 (Repealed)

Part 4

36 (Repealed)

Part 5 Control of stock medicines

36A Interpretation of Part

(1) In this Part, ***use instructions***, in relation to a stock medicine, means the instructions that:

(a) are on the label attached to the package in which the stock medicine is contained and are required or permitted by or under the Agvet Code to be on the label when sold, and

(b) relate to the use of the stock medicine on stock or the way in which stock, or any product from stock, is to be dealt with after the administration of the stock medicine.

Note—

Products from stock would include, for example, milk, wool, honey and eggs.

(2) Without limiting subsection (1), ***use instructions*** include the following matter appearing on the label attached to the package of a stock medicine:

(a) any instructions, directions, recommendations or indications as to the dosage rate for, and method and timing of administration of, the stock medicine,

(b) the type of stock on which the stock medicine is intended to be used or should not be used,

(c) any withholding period,

(d) any precautions and contraindications,

(e) any instructions, directions or recommendations appearing under the heading “Restraint” or “Restraints”.

(3) In this Part, ***relevant withholding period***, in relation to a stock medicine, means:

(a) the withholding period (if any) specified under section 39D by the veterinary practitioner who prescribed or supplied the stock medicine for the treatment of the stock, or

(b) if paragraph (a) does not apply, the withholding period specified in the use instructions.

(4) In this Part:

(a) a reference to a label attached to a package includes a reference to writing appearing on the package, and

(b) a reference (however expressed) to the use of a stock medicine on stock, or the treatment of stock with a stock medicine, includes a reference to the administration to stock of stock food treated with a stock medicine, and

(c) a reference (however expressed) to using a stock medicine in a manner contrary to the use instructions includes a reference to dealing with stock on which the stock medicine has been used in a manner contrary to the use instructions and includes, in particular, not observing the withholding period or varying the withholding period in relation to the stock medicine.

37 Possession of unregistered stock medicines

(1) A person must not have in his or her possession or custody an unregistered stock medicine unless:

(a) the stock medicine was prescribed or supplied by a veterinary practitioner, in the course of the practice of his or her profession, to deal with a particular condition of an animal or animals under his or her care (not being an animal or animals of a food producing species), or

(b) the person is a pharmacist or veterinary practitioner who has possession or custody of the stock medicine in the course of the practice of his or her profession for use otherwise than on an animal or animals of a food producing species.

(2) (Repealed)

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

38 Use of unregistered stock medicines

(1) A person must not use an unregistered stock medicine on stock that is a member of a food producing species.

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

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant

establishes that the defendant was authorised by section 39A or 39B to use the unregistered stock medicine concerned.

39 Use of registered stock medicine contrary to use instructions

(1) A person must not use a registered stock medicine in a manner that is contrary to the use instructions.

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

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that the defendant was authorised by section 39A or 39B to use the registered stock medicine in the manner concerned.

(3) It is a defence to a prosecution for an offence against subsection (1) that:

(a) there were instructions for the use of the stock medicine on the label attached to the package of the stock medicine at the time of the commission of the offence, and

(b) the person, at that time, did not know, and did not have reasonable grounds for suspecting, that those instructions were not (either wholly or partially) the use instructions.

(4) It is not a defence to a prosecution for an offence against subsection (1) that the defendant failed to read the use instructions for the stock medicine concerned.

39A Authorisations for veterinary practitioners

(1) A veterinary practitioner is authorised to use an unregistered stock medicine if the use occurs:

(a) in the course of the practice of the veterinary practitioner’s profession and for the purpose of dealing with an animal or animals under his or her care, and

(b) in the exempt circumstances set out in subsection (3).

(2) A veterinary practitioner is authorised to use a registered stock medicine in a manner contrary to the use instructions if the use occurs:

(a) in the course of the practice of the veterinary practitioner’s profession and for the purpose of dealing with an animal or animals under his or her care, and

(b) in the case of any of the following uses of the stock medicine, in the exempt circumstances set out in subsection (3):

(i) the administration of the stock medicine by injection if any use instruction indicates that the stock medicine is for oral or topical application,

(ii) the use of the stock medicine in a manner contrary to any use instruction that is included under a heading “Restraint” or “Restraints”,

(iii) the use of the stock medicine on stock of a major food producing species if the use instructions do not indicate, in some manner, that the stock medicine is intended for use on stock of some type of major food producing species,

(iv) the use of the stock medicine on stock of a food producing species if the use instructions indicate, in some manner, that the stock medicine is intended for use on stock that is not of a food producing species and if the use instructions also indicate, in some manner, that the stock medicine is not for use on stock of a food producing species.

(3) For the purposes of subsections (1) and (2) (b), the following are exempt circumstances in relation to the use of a stock medicine:

(a) the use of a stock medicine in the treatment of an individual animal of a food producing species (whether or not from a group of stock) where no other animal from the same property is being treated, at or about that time, with that stock medicine,

(b) the use of a stock medicine in accordance with a permit,

(c) the use of a stock medicine in compliance with an order in force under section 46.

(4) An authorisation referred to in this section operates for the purpose of section 38 or 39 only and does not affect any requirement to comply with any other provision of this Act or any other Act or law.

39B Authorisations for persons other than veterinary practitioners

(1) This section applies to persons who are not veterinary practitioners.

(2) A person to whom this section applies is authorised to use an unregistered stock medicine, or to use a registered stock medicine in a manner contrary to the use instructions, if the use:

(a) is in accordance with written instructions from a veterinary practitioner, or

(b) is in accordance with a permit, or

(c) is in compliance with an order in force under section 46.

(3) Without limiting subsection (2), a person to whom this section applies is authorised to use a registered stock medicine in a manner contrary to the use instructions if:

(a) the stock medicine is used on stock of a food producing species (other than a major food producing species), and

(b) the use instructions indicate that the stock medicine may be used on stock of some type of major food producing species, and

(c) the person administers the stock medicine at, or at less than, the dosage rate and using the method and timing of administration indicated in the use instructions, and

(d) the person complies with any contraindications and withholding period indicated in the use instructions, and

(e) the person complies with any use instructions that are included under a heading "Restraint" or "Restraints".

(4) An authorisation referred to in this section operates for the purpose of section 38 or 39 only and does not affect any requirement to comply with any other provision of this Act or any other Act or law.

39C Prescription or supply of stock medicine by veterinary practitioner

(1) A veterinary practitioner must not prescribe or supply a stock medicine for use by a person on stock unless the veterinary practitioner is authorised by this Act to use the stock medicine on that stock.

(2) A veterinary practitioner must not prescribe or supply a stock medicine for use in a manner contrary to the use instructions unless the veterinary practitioner is authorised by this Act to use the stock medicine on that stock in that manner.

(3) A veterinary practitioner must not prescribe or supply an unregistered stock medicine for use on stock (other than stock of a food producing species) unless the stock medicine:

(a) is a registered human pharmaceutical, or

(b) has been compounded by the veterinary practitioner or by a pharmacist on the prescription of the veterinary practitioner.

Maximum penalty: 100 penalty units.

39D Instructions to be provided by veterinary practitioners

(1) A veterinary practitioner must comply with the requirements of this section if the veterinary practitioner:

(a) prescribes or supplies an unregistered stock medicine for use on stock of a food producing species, or uses an unregistered stock medicine on such stock, or

(b) prescribes or supplies a registered stock medicine for use on stock of a food producing species in a manner contrary to the use instructions, or uses a registered stock medicine on such stock in such a manner, or

(c) prescribes or supplies a restricted substance within the meaning of the *Poisons and Therapeutic Goods Act 1966* for use on stock of a major food producing species, or uses a restricted substance on such stock.

Maximum penalty: 200 penalty units.

(2) Each time the veterinary practitioner prescribes, supplies or uses the stock medicine, the veterinary practitioner must:

(a) give to the person for or to whom the stock medicine is prescribed or supplied, or on whose behalf it is used, and to the person who is authorised to supply the stock medicine (where relevant), written instructions for its use, and

(b) explain to the person for or to whom the stock medicine is prescribed or supplied, or on whose behalf it is used, any of the written instructions that the veterinary practitioner intends will override any use instruction for the stock medicine.

(3) The written instructions for use are to be signed and dated by the veterinary practitioner and are to include the veterinary practitioner's name and business address and the following matters:

(a) details to identify the particular stock on which the stock medicine is to be used or has been used,

(b) the name of the owner of the stock or the person in charge of the stock,

(c) particulars to identify the stock medicine,

(d) the name of the active constituent of the stock medicine,

(e) the type of stock for which the stock medicine is intended,

(f) the withholding period (including that there is no withholding period if the veterinary practitioner considers none is required),

(g) the dosage rate,

(h) the frequency of treatment,

(i) the length of treatment,

(j) the manner of administration,

(k) such other matters as may be prescribed by the regulations for the purposes of this subsection.

(4) Despite subsection (3), the written instructions for use of a registered stock medicine in a manner contrary to the use instructions need only include such of the matters set out in that subsection as are different to the use instructions.

39E Records to be kept by veterinary practitioners

A veterinary practitioner must keep a record, in accordance with the regulations, of the following:

(a) the prescription or supply of any unregistered stock medicine for use on stock of a food producing species and the use by the veterinary practitioner of any unregistered stock medicine on any such stock,

(b) the prescription or supply of any registered stock medicine for use on stock of a major food producing species in a manner contrary to the use instructions and the use by the veterinary practitioner of any registered stock medicine on any such stock in such a manner,

(c) the prescription or supply of any registered stock medicine that is a restricted substance within the meaning of the *Poisons and Therapeutic Goods Act 1966* for use on stock of a major food producing species and the use by the veterinary practitioner of a restricted substance on any such stock.

Maximum penalty: 100 penalty units.

39F Instructions to be provided by others who use stock medicines

A person (other than a veterinary practitioner) who uses a stock medicine on stock of a food producing species and who is not an employee of the owner of the stock or the person in charge of the stock must ensure that the owner or person in charge of the stock is given written instructions that:

(a) indicate how the stock on which the stock medicine was used can be identified, and

(b) include the use instructions for the stock medicine or, if they have been varied by the written instructions of a veterinary practitioner, those written instructions.

Maximum penalty: 100 penalty units or, for an offence by a corporation, 200 penalty units.

40 Variation of use instructions by veterinary practitioner

(1) This section applies to the following actions of a veterinary practitioner:

(a) the use by the veterinary practitioner of an unregistered stock medicine on stock of a food producing species,

(b) the giving of instructions for the use of an unregistered stock medicine on stock of a food producing species,

(c) the use by the veterinary practitioner of a registered stock medicine on stock of a major food producing species in a manner contrary to the use instructions,

(d) the giving of instructions for the use of a registered stock medicine on stock of a

major food producing species in a manner contrary to the use instructions.

(2) A veterinary practitioner must not take any action to which this section applies if it is reasonably likely that the action will result in stock or products from stock:

(a) where there is no relevant withholding period for the stock medicine concerned, containing any chemical residue at a level that contravenes the Food Standards Code, or

(b) where there is a relevant withholding period for the stock medicine concerned, containing, at or after the expiry of that period, any chemical residue at a level that contravenes the Food Standards Code.

Maximum penalty: 200 penalty units.

(3) In this section, ***Food Standards Code*** has the same meaning as in the *Food Act 2003*.

40A Buyer of stock to be informed of withholding period

(1) An owner of stock of a food producing species must, if the stock has been treated with a stock medicine and there is a relevant withholding period for the stock medicine that has not expired, ensure that any person with whom the owner has made arrangements to sell the stock is informed:

(a) that the stock has been so treated, and

(b) when the relevant withholding period will expire.

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

(1A) The person in charge of the stock (in a case where the person in charge is not the owner) must, if the stock has been treated with a stock medicine and there is a relevant withholding period for the stock medicine that has not expired, inform any person with whom the person in charge has made arrangements to sell the stock on behalf of the owner:

(a) that the stock has been so treated, and

(b) when the relevant withholding period will expire.

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

(2) A person must not sell any stock of a food producing species that has been treated with a stock medicine for which there is a relevant withholding period that has not expired unless the person informs any buyer or potential buyer, orally or in writing, before the sale:

(a) that the stock has been so treated, and

(b) when the relevant withholding period will expire.

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

(3) It is a defence to a prosecution for an offence against subsection (1) or (2) that the person did not know, and did not have reasonable grounds for suspecting, at the time of the commission of the offence, that the stock concerned had been treated with a stock medicine and that the relevant withholding period had not expired.

(4) (Repealed)

40B Breach of specified withholding period

(1) If stock of a food producing species has been treated with a stock medicine, a person must not cause or permit:

(a) the slaughter of the stock for human consumption, or

(b) the harvest of the wool, fibre, milk or eggs of the stock for human consumption, or

(c) the release of the honey of the stock for human consumption,

before the relevant withholding period has expired.

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

(2) It is a defence to a prosecution for an offence against this section that:

(a) the person was not aware that the stock had been treated with a stock medicine, or

(b) (Repealed)

(c) there were instructions for the use of the stock medicine on the package or label at the time of the commission of the offence (whether or not those instructions specified a withholding period) and the person, at the time, did not know, and did not have reasonable grounds for suspecting, that those instructions were not (either wholly or partially) the instructions required to be on the package or label.

41 Offences relating to sale of stock medicines

(1) A person must not:

(a) sell an unregistered stock medicine, or

(b) sell a stock medicine under the name of a registered stock medicine, if the person

knows the stock medicine sold does not conform with the registered prescription or composition of the registered stock medicine, or

(c) sell a stock medicine that does not comply with a standard prescribed for the stock medicine or for stock medicines of the class to which it belongs, or

(d) sell a registered stock medicine in respect of which any claim or statement as to its efficacy for a use other than a use required or permitted to be specified on its package (or label) by or under the Agvet Code has been made by the person or with the person's consent.

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

(2) Subsection (1) (a) does not apply to the sale of a stock medicine if the stock medicine was prescribed or supplied by a veterinary practitioner, in the course of the practice of his or her profession, to deal with a particular condition of an animal or animals under his or her care.

41A Stock medicines to be dealt with in accordance with notices under Agvet Code

If a person who has a stock medicine in his or her possession or custody is aware of a notice under section 55 of the Agvet Code that requires a person to deal with the stock medicine in a particular way, the person must deal with the stock medicine in accordance with the instructions contained in the notice.

Maximum penalty: 100 penalty units or, for an offence by a corporation, 200 penalty units.

42 Defence to certain prosecutions

(1) It is a defence to a prosecution for an offence against section 37 (1), 38 or 41 (1) (a) that the person did not know, and did not have reasonable grounds for suspecting, at the time of the commission of the offence, that the stock medicine concerned was unregistered.

(2) (Repealed)

43 Offences relating to advertising

(1) A person must not contravene any prohibition or requirement made by the regulations for the purposes of this section and relating to:

(a) the advertising of stock medicines or their uses, or

(b) claims, statements or representations relating to the use of stock medicines, or

(c) the dissemination of information concerning stock medicines or their uses.

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

units.

(2) A person must not make, or cause to be made, to any other person any claim or statement, or publish, circulate or distribute (or cause to be published, circulated or distributed) any claim or statement:

(a) as to the efficacy of a registered stock medicine for a use other than a use for which the stock medicine is registered, or

(b) with respect to any stock medicine, if the person knows the claim or statement is false or misleading in any material particular.

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

(3) The Director-General may, on the recommendation of the Board, cancel the registration of a registered stock medicine if the last applicant for registration or renewal of registration of the stock medicine is convicted of an offence under this section in respect of the stock medicine.

44, 45 (Repealed)

46 Supply and use bans and recall orders

(1) The Director-General may make an order under this section if the Director-General believes on reasonable grounds that the administration or application of a stock medicine or a stock medicine of a particular class:

(a) is likely to endanger the health of the public, consumers of food or produce derived from stock or persons administering or applying the stock medicine, or

(b) is likely to cause undue hazard to the environment, or

(c) is likely to make stock ill, or

(d) is likely to have an adverse effect on trade, or the promotion of trade, in stock or a product derived from stock, or

(e) is likely to impede the control or eradication of diseases or pests affecting stock, or

(f) is likely to impede the control or reduction of populations of pests, including bacterial organisms, that are resistant to stock medicines, or

(g) is inappropriate in a particular area because of local climatic or soil conditions.

Editorial note—

For orders under section 46—see item (5) of the Historical notes at the end of this Act.

(2) An order under this section may:

(a) prohibit or regulate the supply of the stock medicine or stock medicines of the class, or

(b) require any person who has supplied the stock medicine or stock medicines of the class to take such reasonable steps as are specified in the order to recover any such stock medicine from other persons to whom it has been supplied by the person, or

(c) prohibit or regulate the use of the stock medicine or stock medicines of that class by any person in relation to any specified species of animal, or

(d) provide for exemptions from the operation of the order.

(2A) Without affecting the generality of subsection (2), an order under this section made in relation to a specified stock medicine or a stock medicine of a specified class may make provision for or with respect to:

(a) the identification or marking of stock to indicate whether or not stock has been treated with the stock medicine, including the use of particular colours of tags required under the *Stock Diseases Act 1923*, or

(b) the making and keeping of records relating to, and to the treatment given or not given by, the stock medicine, or

(c) the information or documentation required to accompany the stock medicine when sold, or to accompany stock when sold or consigned for sale, or

(d) the disposal of the stock medicine in accordance with requirements of the Director-General, or

(e) the holding of an authority for the purchase, sale or use of the stock medicine, the fixing of a fee for such an authority and the waiver of such a fee, or

(f) the prohibition of the use of the stock medicine for a particular purpose or for any purpose.

(3) An order under this section:

(a) is to be published in the Gazette and in some other manner that, in the opinion of the Director-General, is most likely to bring it to the attention of the persons who will be affected by it, and

(b) if it applies to a named person (whether or not it also applies in any respect generally or to a specified class of persons) is to be served on the named person, and

(c) may relate to a registered stock medicine or an unregistered stock medicine.

(4) (Repealed)

(5) Any such order takes effect:

(a) in so far as it applies to a named person, when it is served on the person, and

(b) in so far as it applies generally or to a specified class of persons, when it is published in the Gazette or on any later date specified in the order.

(6) A person must not, without reasonable excuse, contravene an order under this section.

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

47 Duration, tabling and disallowance of bans and recall orders

(1) An order under section 46 remains in force for the period (if any) specified in the order or until it is repealed.

(2) The Director-General may repeal any such order:

(a) if it applies only to a named person, by a further order served on the person, and

(b) in any other case, by a further order published in the same manner as the order being repealed.

(3) Sections 40 (notice of statutory rules to be tabled) and 41 (disallowance of statutory rules) of the *Interpretation Act 1987* apply to any such order in the same way as they apply to a statutory rule.

Part 6 General

48 Authorisation of inspectors

(1) The Director-General may, by order in writing, authorise a person to be an inspector for the purposes of this Act.

(2) An authorisation under this section may be given unconditionally or subject to conditions specified in the relevant order.

49 Authorisation of analysts

(1) The Director-General may, by order in writing, authorise any person who, in the Director-General's opinion, has appropriate qualifications and experience, to be an analyst for the purposes of this Act.

(1A) An authorisation under this section may be given unconditionally or subject to conditions specified in the relevant order.

(2) 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.

50 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 preparation, manufacture, sale, storage, delivery or preparation for sale of any stock medicine,

(b) enter and search any vehicle, ship, aeroplane or other means of transport which the inspector has reasonable grounds for believing is used for transporting a stock medicine in the course of trade, sale or delivery,

(b1) require the production of any record or document required to be kept under this Act, the regulations or a permit, order or authority in force under this Act,

(b2) examine any such records or documents, make copies of them or any part of them and, for that purpose, take away and retain them or any part of them for such time as may be reasonably necessary,

(c) examine any stock medicine which the inspector has found and open any package containing any such stock medicine,

(d) take for analysis or examination samples of any such stock medicine without payment,

(e) seize, or seize and remove, any substance or article that the inspector believes on reasonable grounds to be a stock medicine 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, the regulations, or a permit, order or authority in force under this Act in respect of the substance or article,

(e1) seize, or seize and remove, any tag that an inspector believes on reasonable grounds is being used in contravention of an order by the Director-General under this Act,

(f) give directions for or with respect to the detention of any substance, article or container that has been removed under paragraph (e),

(g) direct the occupier of any place where any such substance or article is seized, or the owner of the substance or article, to retain it in that place, or in a place under the control of the occupier or owner that will, in the opinion of the inspector, least endanger the health of the public, any person or animals or least endanger the

environment,

(g1) despite section 52, give directions for the return to the manufacturer or supplier of any substance, article or container seized under paragraph (e),

(h) with the consent of the Minister, and at the expense of the owner of the stock medicine, destroy or render harmless, or give directions for the destruction or rendering harmless of, any stock medicine if:

(i) the inspector believes on reasonable grounds that it is necessary in the interest of the health of the public, any person or animals or in the interest of the environment, or

(ii) the owner of the stock medicine authorises the inspector in writing so to do,

(i) exercise the power conferred on him or her by paragraph (h) without the consent of the Minister where imminent danger to the health of the public, any person or animals, or to the environment, exists.

(2) (Repealed)

(3) The regulations may restrict the quantity or nature of samples of a stock medicine that may be taken by an inspector for analysis.

(4) If any inspector takes a sample of any stock medicine for analysis, the inspector is to:

(a) immediately divide the sample into 3 approximately equal parts and seal or fasten each part in a package (unless the stock medicine is already in packages, in which case the inspector may instead take 3 packages), and

(b) attach to each part or package a label stating the name (so far as it is known to the inspector) of the occupier of the place at which the sample is taken (or any person apparently in occupation of the place), or of the person apparently having possession, custody or control of the stock medicine from which the sample was taken, and the time and place at which the sample was taken, and

(c) sign the label on each package and give each package to the person named on the label to sign it also, and

(d) give one of the packages to that person, keep one of the packages and deliver the remaining package to an analyst for analysis of the sample.

(5) The inspector is to deliver the package containing the sample for analysis to the analyst personally or in such other way as may be prescribed.

(6) The package kept by the inspector is to be dealt with as prescribed.

(7) In this section, references to a stock medicine include references to substances that

may reasonably be suspected to be stock medicines.

50A Conditions of exercise by inspector of power of entry

(1) The power conferred on an inspector by section 50 to enter any land, building, premises or place may not be exercised unless the inspector:

(a) has been issued by the Director-General with a certificate of authority, and

(b) gives reasonable notice to the occupier of the land, building, premises or place, unless the giving of notice would defeat the purpose for which it is intended to exercise the power, and

(c) exercises the power at a reasonable hour of the day, unless it is being exercised in an emergency, and

(d) produces the certificate of authority if required to do so by a person apparently in occupation of the land, building, premises or place, and

(e) uses no more force than is reasonably necessary to effect the entry.

(2) A certificate of authority must:

(a) state that it is issued under this Act, and

(b) give the name of the inspector to whom it is issued, and

(c) describe the nature of the powers conferred and the source of the powers, and

(d) state the date (if any) on which it expires, and

(e) state that the powers do not authorise entry into any part of premises used for residential purposes, unless the occupier consents, and

(f) bear the signature of the person by whom it is issued and state the capacity in which the person is acting in issuing the certificate.

(3) An inspector may not enter any part of premises used for residential purposes unless the occupier consents.

(4) If damage is caused by an inspector exercising a power to enter any land, building, premises or place (or by a person assisting such an inspector), a reasonable amount of compensation is recoverable as a debt owed by the employer of the inspector to the owner of the land, building, premises or place, unless the exercise of the power was obstructed.

(5) This section does not apply to a power conferred by a search warrant.

(6) In this section:

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

51 Search warrant

(1) An inspector may apply to an authorised officer for the issue of a search warrant if the inspector has reasonable grounds for believing that a provision of this Act or the regulations has been or is being contravened in any dwelling or other place.

(2) The authorised officer to whom the application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising the inspector named in the warrant, when accompanied by a member of the Police Force:

(a) to enter any premises or place, and

(b) to search the premises or place for evidence of a contravention of this Act or the regulations.

(3) Division 4 of Part 5 of the *Law Enforcement (Powers and Responsibilities) Act 2002* applies to a search warrant issued under this section.

(4) In this section:

authorised officer has the same meaning as it has in the *Law Enforcement (Powers and Responsibilities) Act 2002*.

52 Retention and disposal of seized property

(1) In this section, ***prescribed period*** for any substance, article or container seized under section 50 (1) (e) means the period of 12 months commencing from the time of seizure of the substance, article or container and includes any extension of that period granted under this section.

(2) During the prescribed period any substance, article or container seized under section 50 (1) (e) may be retained or may be returned to the person from whom it was seized (unless it has been forfeited to the Crown).

(3) At the expiration of the prescribed period, a substance, article or container seized under section 50 (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 has been forfeited to the Crown, or

(b) before the end of the prescribed period, the Director-General causes a notice to be advertised to the effect that application will be made on a specified day (after the end of the prescribed period) for its forfeiture to the Crown.

(4) As soon as practicable after the day specified in the notice, the substance, article or container to which any such notice relates 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 it is forfeited to the Crown.

(5) The Local Court may extend the prescribed period for any substance, article or container on application by or on behalf of the Minister.

(6) The Local Court may order the return of any substance, article or container seized under section 50 (1) (e) to the owner or person from whom it was seized on the application of the owner or person.

(7) (Repealed)

53 Tampering with samples

(1) A person must not improperly tamper with any sample or package containing a sample taken under this Act.

(2) A person who is not authorised to do so must not remove, erase, alter, break or open any mark, label, seal or fastening placed by an inspector on any package containing a substance or article seized under this Act.

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

54 Inspector may require information

(1) An inspector may at any time require the buyer or seller of any stock medicine or of any substance or article reasonably suspected of being a stock medicine:

(a) to state his or her name and address, and

(a1) to state the name and address of the person from whom the stock medicine, substance or article was bought or to whom it was sold, and

(b) to provide such other information in connection with the purchase or sale as the inspector may reasonably require, and

(c) to produce for inspection any invoice, agreement, circular or advertisement given to the buyer or seller in connection with the sale.

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

(a) refuse or fail to comply with any such requirement to the extent that he or she is capable of complying with it, or

(b) refuse or fail to produce any such invoice, agreement, circular or advertisement.

Maximum penalty: 100 penalty units.

(3) In this section, a reference to a buyer or seller that is a corporation includes a reference to any officer or employee of the corporation.

55 Certificate of analyst to be evidence

(1) Any analyst who analyses a substance submitted for analysis under 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 is evidence of the identity of the substance analysed and of the result of the analysis without proof of the signature of the person appearing to have signed the certificate.

56 Forfeiture

(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 medicine to which the conviction relates.

(2) In any such case, the forfeiture may extend to the whole of the stock medicine, to the whole of any similar article and to all packages containing any similar stock medicine belonging to the defendant or in the defendant's possession at the time of committing the offence.

(3) All stock medicines forfeited under this Act are to be disposed of as the Minister may direct.

57 Costs of analysis

If a person is convicted of an offence against this Act in respect of any substance which has been analysed by an analyst under 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.

58 Offence of obstructing inspectors

A person must not:

(a) prevent, delay, obstruct or hinder any inspector from or in the exercise or performance of the inspector's powers, authorities, duties or functions under this Act, or

(b) refuse or fail to comply with a direction of an inspector given in accordance with section 50 (1) to the extent that the person is capable of complying with it.

Maximum penalty: 50 penalty units.

59 Retaking of seized stock medicines

A person must not retake or attempt to retake any substance or article seized under this Act or ordered to be forfeited under this Act.

Maximum penalty: 50 penalty units.

60 Proceedings for offences

(1) Proceedings for an offence against this Act or the regulations may be dealt with summarily before the Local Court or before the Supreme Court in its summary jurisdiction.

(2) If proceedings for an offence are brought before the Local Court, the maximum monetary penalty that the Court may impose is 100 penalty units or the maximum monetary penalty provided by this Act or the regulations in respect of the offence, whichever is the lesser.

(3) If proceedings for an offence are brought before the Supreme Court, the Court may impose a penalty not exceeding the maximum penalty provided by this Act or the regulations in respect of the offence.

(4) Any such proceedings commenced in the Local Court must be commenced by an information laid within 12 months after the time when the offence is alleged to have been committed.

(5), (6) (Repealed)

60A 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 a person authorised in writing by the Director-General as an authorised officer for the purposes of this section and includes a police officer.

61 (Repealed)

62 Service of notices

A notice or order under this Act may be served:

(a) on a natural person:

(i) by delivering it to the person personally, or

(ii) by leaving it at, or by sending it by pre-paid post to, the residential or business address of the person last known to the Director-General, or

(b) on a body corporate—by leaving it at, or by sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate.

63 (Repealed)

64 Delegation by Director-General

The Director-General may delegate to a person any of the Director-General's powers, authorities, duties or functions under this Act, other than this power of delegation.

65 Regulations

(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) In particular, the regulations may make provision for or with respect to the following:

(a) standards for stock medicines,

(b) regulating or prohibiting the supply of stock medicines,

(c) regulating or prohibiting the provision, administration or application of stock medicines to stock,

(d) regulating or prohibiting the introduction of stock medicines into New South Wales,

(e) (Repealed)

(f) the manner in which the particulars relating to a stock medicine are to be written on the package containing it or on a label attached to the package and the manner in which a label containing the particulars is to be attached to a package,

(g) the size and type of labels to be attached to stock medicines,

(h) the forms to be used for the purposes of this Act and the regulations,

(i) the fees to be paid under this Act and the regulations,

(j) the methods of analysis for any stock medicine.

(3) A regulation may create an offence punishable by a penalty not exceeding 50 penalty units.

66 Savings and transitional provisions

Schedule 2 has effect.

67, 68 (Repealed)

Schedule 1 (Repealed)

Schedule 2 Savings, transitional and other provisions

(Section 66)

Part 1 General

1 Definition

In this Schedule, ***the 1940 Act*** means the *Stock Foods and Medicines Act 1940* as in force immediately before its being amended by the *Stock Foods and Medicines (Amendment) Act 1989*.

2 Regulations

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

this Act

Stock Foods and Medicines (Amendment) Act 1989

Stock Medicines (Amendment) Act 1993

Stock Medicines Amendment Act 1995

Stock Medicines Amendment Act 2004

any other Act that amends this Act

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

(3) To the extent to which any such provision 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.

Parts 2–4

3–16 (Repealed)

Part 5 Provisions consequent on enactment of Stock Medicines Amendment Act 2004

17 Stock Medicines Board

(1) The Stock Medicines Board established under Part 4 of this Act before its repeal by the *Stock Medicines Amendment Act 2004* is dissolved.

(2) The persons holding office as members of the Stock Medicines Board immediately before the commencement of this clause:

(a) cease to hold office as such on that commencement, and

(b) are not entitled to any compensation for ceasing to hold office because of the operation of this clause.

18 Repeal of orders

On the repeal of section 34 by the *Stock Medicines Amendment Act 2004*, any order made under that section and in force is revoked.

19 Proceedings for offences

The amendment of section 60 by the *Stock Medicines Amendment Act 2004* extends to offences committed before the commencement of the amendment but does not affect any

proceedings commenced before that commencement and not finally determined at that commencement.