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).
  Statute Law (Miscellaneous Provisions) Act (No 2) 2019 No 14 (not commenced — to commence on 5.12.2019)

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.

2B Relationship with Biosecurity Act 2015

This Act is to be read in conjunction with the *Biosecurity Act 2015*, which provides for the powers of authorised officers in connection with this Act and for other administrative matters in connection with this Act.

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 an authorised analyst under the *Biosecurity Act 2015*.

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.

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 Part 21 of the *Biosecurity Act 2015* 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.

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.

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 an animal in accordance with any requirements relating to the identification of animals specified by or under the *Biosecurity Act 2015*.

use instructions—see section 4.

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.

4 Use instructions

(1) In this Act, ***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 Act, a reference to a label attached to a package includes a reference to writing appearing on the package.

5 Use of stock medicines

(1) In this Act, 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.

(2) In this Act, 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.

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.

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.

Parts 2–4

7–36 (Repealed)

Part 5 Control of stock medicines

36A (Repealed)

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 by or under the *Biosecurity Act 2015*, 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

48–55 (Repealed)

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, 59 (Repealed)

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 issue a penalty notice to a person if it appears to the officer that the person has committed a penalty notice offence.

(2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.

(3) The *Fines Act 1996* applies to a penalty notice issued under this section.

Note—

The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter

determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.

(4) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).

(5) 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.

(6) In this section, ***authorised officer*** means a person authorised in writing by the Secretary of the Department of Industry 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) (Repealed)

(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.

Part 6 Provisions consequent on enactment of Biosecurity Act 2015

20 Definitions

In this Part:

Director-General includes any person exercising the functions of the Director-General under this Act.

relevant instrument means any notice, direction, warrant, consent, delegation or other instrument made, given, granted or issued under a repealed provision.

repealed provision means a provision of this Act repealed by the *Biosecurity Act 2015*.

21 Continuation of instruments and powers under repealed provisions

(1) This Act, as in force immediately before its amendment by the *Biosecurity Act 2015*, continues to have effect in respect of:

(a) any relevant instrument in force immediately before the repeal of a repealed provision, and

(b) anything done (before or after the repeal of a repealed provision) under or in connection with such a relevant instrument.

(2) A relevant instrument:

(a) continues to have effect (despite the amendments made by the *Biosecurity Act 2015*), and

(b) may be withdrawn, varied, revoked or cancelled in accordance with this Act (as if those amendments had not been made), and

(c) ceases to have effect as provided for by this Act, as in force immediately before those amendments were made, or as provided for by this clause (whichever happens first).

(3) Accordingly, any function conferred on any person under a repealed provision in connection with a relevant instrument (including a power to enter land or to seize or destroy any thing) may continue to be exercised after the repeal of the repealed provision as if that provision remained in force.

(4) The Secretary of the Department of Industry, Skills and Regional Development may, by order in writing, declare that a relevant instrument is a superseded instrument.

(5) A relevant instrument that is declared to be a superseded instrument ceases to have

effect when the order takes effect.

(6) This clause does not apply to the following:

(a) to a permit issued under a repealed provision, or

(b) to any instrument by which a person is authorised as an inspector or analyst.

22 Continuation of regulations

(1) Any regulations made under a repealed provision, as in force immediately before the repeal of the repealed provision, are taken to continue to have effect in relation to the relevant instruments and anything done under or in connection with the relevant instruments.

(2) The power to make regulations conferred by Part 1 of this Schedule includes power to amend or revoke any regulation under a repealed provision that is taken to continue to have effect under this clause.

23 Obligations under repealed provisions continue to apply

(1) If a repealed provision continues to have effect, any liability or obligation imposed on a person by, under or in connection with a contravention of, that provision also continues to have effect.

(2) Accordingly, a person may incur liability for an offence under a repealed provision after the repeal of the repealed provision.

Note—

For example, a person could incur liability for an offence under section 58 (as in force before its repeal by the *Biosecurity Act 2015*) for a failure to comply with a direction given by an inspector before the repeal of section 50 even though that failure occurs after the repeal of section 50.

(3) However, a person cannot be found guilty of both an offence against this Act and an offence against the *Biosecurity Act 2015* in respect of the same act or omission occurring on the same occasion.

24 Seizure of property

This Act, as in force immediately before its amendment by the *Biosecurity Act 2015*, continues to have effect in respect of anything seized, taken or removed under a power conferred by a repealed provision whether before or after the repeal of the repealed provision. Accordingly, such a thing is to be dealt with as provided for by the repealed provisions.

25 Continuation of permits

(1) A permit granted or issued under this Act and in force immediately before the repeal of section 32 by the *Biosecurity Act 2015* continues to have effect on that repeal.

(2) The permit remains in force, subject to any condition relating to its duration specified in it, until it is cancelled under Part 21 of the *Biosecurity Act 2015*.

(3) On the repeal of section 32, the *Biosecurity Act 2015* applies in respect of the permit as if it had been granted by a relevant decision-maker under Part 21 of that Act.

(4) The permit is authority to engage in the conduct authorised by the permit for the purposes of both this Act and the *Biosecurity Act 2015* (to the extent it would otherwise prohibit the conduct concerned).

(5) The permit applies to any person to whom it would have applied under section 33 of this Act (had that section not been repealed) as if:

(a) the permit were a group permit under the *Biosecurity Act 2015*, and

(b) the persons referred to in section 33 were the specified class of person to whom the permit were granted.

(6) Any conditions of the permit imposed by the Director-General under this Act that were in force immediately before the repeal of section 32 are taken on that repeal to be conditions of the permit under the *Biosecurity Act 2015* (as if they had been imposed by a relevant decision-maker under section 347 of the *Biosecurity Act 2015*).

(7) To avoid doubt, a permit is also subject to any conditions prescribed by the regulations or imposed by a relevant decision-maker under the *Biosecurity Act 2015*.

26 Applications for permits

(1) An application for a permit or a renewal of a permit under this Act that was duly made to the Director-General and not finally determined before the repeal of section 32 by the *Biosecurity Act 2015* is to be dealt with as an application for a permit or renewal of a permit under Part 21 of the *Biosecurity Act 2015*.

(2) A relevant decision-maker under the *Biosecurity Act 2015* may require the applicant to comply with any requirement relating to the application that the applicant would have been required to comply with if the application had been made under section 341 or 345 of that Act.

27 Functions of inspectors

(1) A person who, immediately before the repeal of section 48 by the *Biosecurity Act 2015*, was an inspector under this Act is taken, on that repeal, to have been appointed as an authorised officer under the *Biosecurity Act 2015*.

(2) Appointment is subject to any conditions or limitations that were in force immediately before the repeal of section 48.

(3) Any instrument of authority as an inspector issued under this Act is taken to be

sufficient evidence of authority as an authorised officer under the *Biosecurity Act 2015*.

(4) However, the Secretary is to issue each inspector appointed as an authorised officer under this clause with evidence of their authority to exercise functions as an authorised officer under the *Biosecurity Act 2015* as soon as practicable.

(5) This clause does not apply to police officers.

28 Functions of authorised officers under this Act

(1) An authorised officer under the *Biosecurity Act 2015* may exercise any function of an inspector under a repealed provision or a relevant instrument that continues to have effect. Accordingly, a reference in a repealed provision or relevant instrument to an inspector is taken, on the repeal of section 48 by the *Biosecurity Act 2015*, to include a reference to an authorised officer under that Act.

(2) The powers conferred on an authorised officer by subclause (1) are subject to any conditions or limitations that apply to the person's appointment as an authorised officer under that Act.

(3) Any evidence of authority as an authorised officer issued under the *Biosecurity Act 2015* is taken to be sufficient evidence of authority to exercise the functions of an inspector under a repealed provision or relevant instrument.

29 Analysts

(1) A person who, immediately before the repeal of section 49 by the *Biosecurity Act 2015*, was an analyst under this Act is taken, on that repeal, to have been appointed as an authorised analyst under the *Biosecurity Act 2015*.

(2) Appointment is subject to any conditions or limitations that were in force immediately before the repeal of section 49.

(3) An authorised analyst under the *Biosecurity Act 2015* may exercise any function of an analyst under a repealed provision or a relevant instrument that continues to have effect. Accordingly, a reference in a repealed provision or relevant instrument to an analyst is taken, on the repeal of section 49 by the *Biosecurity Act 2015*, to include a reference to an authorised analyst under that Act.

(4) The powers conferred on an authorised analyst by subclause (3) are subject to any conditions or limitations that apply to the person's appointment as an authorised analyst under the *Biosecurity Act 2015*.