

SOUTH AUSTRALIA

LIVESTOCK ACT 1997

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **1 October 1998**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

SUMMARY OF PROVISIONS

PART 1 PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Interpretation—notifiable condition and exotic disease
5. Interpretation—livestock etc. affected or suspected of being affected with a disease or contaminant
6. Interpretation—controlling or eradicating disease or contamination
7. Application of Act

PART 2 INDUSTRY INVOLVEMENT IN REGULATION

DIVISION 1—LIVESTOCK ADVISORY GROUPS

8. Establishment of livestock advisory groups
9. Functions of livestock advisory groups
10. Terms and conditions of membership and procedures
11. Annual reports

DIVISION 3—INDUSTRY CODES OF PRACTICE

16. Codes of practice

PART 3 REGISTRATION OF CERTAIN INDUSTRIES

DIVISION 1—KEEPING LIVESTOCK

17. Requirement for registration to keep certain livestock

DIVISION 2—ARTIFICIAL BREEDING

18. Requirement for registration of artificial breeding centre
19. Requirement for registration to perform artificial breeding procedure

DIVISION 3—VETERINARY DIAGNOSTIC LABORATORIES

20. Requirement for registration of veterinary diagnostic laboratory

DIVISION 4—GENERAL

21. Eligibility for registration
22. Application for registration
23. Term of registration and renewal
24. Conditions of registration
25. Periodic returns
26. Suspension or cancellation of registration

PART 4 HEALTH OF LIVESTOCK

DIVISION 1—NOTIFIABLE CONDITIONS

27. Requirement to report notifiable conditions
28. Acts causing or likely to cause livestock to become affected with notifiable condition
29. Bringing notifiable disease into State
30. Movement of livestock or livestock products affected with notifiable condition
31. Supply of livestock or livestock products affected with notifiable condition
32. Feeding of products that may cause livestock to become affected with notifiable condition

DIVISION 2—RESTRICTIONS ON ENTRY OF LIVESTOCK OR OTHER PROPERTY

33. Prohibition on entry of livestock or other property absolutely or without required health certificate, etc.

DIVISION 3—INVESTIGATIONS

34. Investigation by inspector
35. Investigation by owner or occupier of land

DIVISION 4—CONTROL OR ERADICATION OF DISEASE OR CONTAMINATION

36. Guidelines for taking action under this Division
37. Gazette notices
38. Individual orders
39. Action on default
40. Action in emergency situations
41. Action where no person in charge and owner cannot be located
42. Exercising powers in relation to native or feral animals
43. Limitation on destruction or disposal of livestock or other property
44. Limitation on proceedings in case of exotic disease

**DIVISION 5—IMPLIED CONTRACTUAL TERMS AND CONDITIONS
AS TO HEALTH OF LIVESTOCK**

45. Implied contractual terms and conditions

DIVISION 6—MISCELLANEOUS

46. Feeding of animal products in certain circumstances

**PART 5
EXOTIC DISEASES ERADICATION FUND**

47. Establishment of Fund
48. Application of Fund
49. Claims for compensation from Fund
50. Procedure for making claim and determination of claim
51. Appeal against Chief Inspector's determination of claim

**PART 6
SPECIAL PROVISIONS RELATING TO BEES**

52. Reservation of Kangaroo Island for pure Ligurian bees
53. Reservation of other areas for classes of bees by proclamation
54. Prohibition against keeping bees in specified areas of State

**PART 7
BRANDS**

55. Registers of brands
56. Applications
57. Refusal to register brand
58. Term of registration of brand and renewal
59. Exclusive use of registered brand
60. Transfer of ownership of registered brand
61. Cancellation of registration of brand
62. Offence to use registered brand of another

**PART 8
ADMINISTRATION AND ENFORCEMENT**

DIVISION 1—ADMINISTRATION

- 63. Appointments
- 64. Identification of inspectors
- 65. Analysts
- 66. Delegations
- 67. Immunity from personal liability

DIVISION 2—GENERAL POWERS OF INSPECTORS

- 68. General powers of inspectors
- 69. Provisions relating to seizure
- 70. Offence to hinder, etc., inspectors
- 71. Self-incrimination

DIVISION 3—COMPLIANCE NOTICES

- 72. Compliance notices

**PART 9
APPEALS**

- 73. Appeals
- 74. Operation and implementation of decisions subject to appeal

**PART 10
MISCELLANEOUS**

- 75. False or misleading information
- 76. Statutory declarations
- 77. Telephone warrants
- 78. General defence
- 79. Vicarious liability
- 80. Offences by bodies corporate
- 81. Continuing offence
- 82. Prosecution period
- 83. Recovery of technical costs associated with prosecutions
- 84. Evidence
- 85. Service
- 86. Incorporation of codes, standards or other documents
- 87. Gazette notices
- 88. Regulations

SCHEDULE 1

Requirements for control or eradication of disease or contamination

SCHEDULE 2

Repeal and transitional provisions

**APPENDIX
LEGISLATIVE HISTORY**

LIVESTOCK ACT 1997

being

Livestock Act 1997 No. 6 of 1997
[Assented to 20 March 1997]¹

as amended by

Primary Industry Funding Schemes Act 1998 No. 57 of 1998 [Assented to 3 September 1998]²

¹ Came into operation (except Pts. 6 & 7 and Sched. 2 cls. 1(a)-(e), (h), 2(6) & (7)) 22 January 1998: *Gaz.* 15 January 1998, p. 82; Pts. 6 & 7 and Sched. 2 cls. 1(a)-(e), (h), 2(6) & (7) had not been brought into operation at the date of this reprint.

² Came into operation 1 October 1998: *Gaz.* 24 September 1998, p. 930.

NOTE:

- Asterisks indicate repeal or deletion of text.
- For the legislative history of the Act see Appendix.

An Act to regulate matters relating to livestock; to repeal the Apiaries Act 1931, the Branding of Pigs Act 1964, the Brands Act 1933, the Cattle Compensation Act 1939, the Deer Keepers Act 1987, the Foot and Mouth Disease Eradication Fund Act 1958, the Stock Act 1990 and the Swine Compensation Act 1936; and for other purposes.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Livestock Act 1997*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. (1) In this Act, unless the contrary intention appears—

"affected with a disease or contaminant"—see section 5;

"analyst" means a person approved as an analyst under Part 8;

"artificial breeding centre" means a business or institution in which artificial breeding procedures are performed on behalf of others on or in connection with livestock of a prescribed class;

"artificial breeding procedures" means—

- (a) veterinary procedures directed at fertilisation of livestock ova by artificial means including—
 - (i) artificial insemination;
 - (ii) collection of livestock embryos and implantation in other livestock;
 - (iii) in vitro fertilisation;
- (b) collecting, processing, handling, storing or distributing livestock semen, ova or embryos for the purposes of such procedures;

"bee" means a bee of the genus *Apis* or *Megachile*;

"body tissues" of livestock includes the bones, skin, wool or feathers of livestock;

"brand" includes a paint or fire brand, earmark or tattoo;

"Chief Inspector" means the Chief Inspector of Stock appointed under Part 8;

"contaminant" means—

- (a) a substance remaining in the body tissues or secretions of livestock resulting from use of or contact with a metallic compound, pesticide, herbicide, drug or other chemical (whether of the same or of a different kind or nature); or

Livestock Act 1997

- (b) a natural secretion present in the body tissues or secretions of livestock in abnormally high concentration;

"controlling or eradicating disease or contamination"—*see section 6*;

"disease" includes any bacterium, virus, parasite, insect or other organism or agent capable of causing disease in animals or humans;

"exotic disease"—*see section 4*;

"holding" means lands contiguous to each other, or separated only by a road, railway or watercourse, and worked as one property;

"inspector" means an inspector appointed under Part 8;

"livestock" means animals kept or usually kept in a domestic or captive state, including poultry, fish or crustaceans kept or usually kept at a fish farm or in an aquarium, and bees for which a hive is kept;

"livestock consultant" means a person who, for fee or reward, provides advice about, or arranges for the sale or purchase of, livestock;

"livestock industry" includes—

- (a) the manufacture, production or supply of livestock food; and
- (b) any other industry of a class declared by regulation to be within the ambit of this definition;

"livestock products" means carcasses or parts of carcasses of livestock or any products consisting of parts of or derived from livestock;

"notifiable condition", "notifiable contaminant" or "notifiable disease"—*see section 4*;

"place" includes land, premises, vehicle, vessel or aircraft;

"property" means land or any animal, equipment, thing or matter;

"record" includes any book, document or writing and any other source of information compiled, recorded or stored by computer, microfilm or other process, or in any other manner or by any other means;

"sell" includes—

- (a) barter or exchange; or
- (b) advertise, offer or display for sale, barter or exchange,

and **"sale"** has a corresponding meaning;

"veterinary diagnostic laboratory" means a place in which samples or specimens from livestock or livestock products are tested or analysed for the purposes of determining whether they are affected with a disease or contaminant;

"veterinary surgeon" means a person registered under the *Veterinary Surgeons Act 1985*.

(2) A reference to the health of livestock includes a reference to the livestock being free from any disease or contaminant.

(3) If livestock stray from one place to another as a result of the act or omission of a person, the person will be taken to have caused the livestock to have moved between the places.

Interpretation—notifiable condition and exotic disease

4. (1) The Minister may, by notice in the *Gazette*, declare—

- (a) a disease to be a **notifiable disease** in relation to a class of livestock;
- (b) a concentration of contaminant in body tissues or secretions of livestock to be a **notifiable contaminant** in relation to a class of livestock.

(2) The Minister may, by the same or a subsequent notice in the *Gazette*, designate a specified notifiable disease as an **exotic disease**.

(3) A **notifiable condition** is a notifiable disease or a notifiable contaminant (and includes an exotic disease).

Interpretation—livestock etc. affected or suspected of being affected with a disease or contaminant

5. (1) Livestock are affected with a disease or contaminant if—

- (a) they are suffering from or affected with the disease; or
- (b) they contain the contaminant in their body tissues or secretions.

(2) Livestock products are affected with a disease or contaminant if—

- (a) they have come from livestock affected with the disease or contaminant; or
- (b) they have subsequently become contaminated with the disease or contaminant.

(3) Land is affected with a disease or contaminant if the land, or any water or vegetation on the land, contains or produces a substance capable of causing livestock that consume it or come into contact with it to become affected with the disease or contaminant.

(4) Other property is affected with a disease or contaminant if the property contains or produces a substance capable of causing livestock that consume it or come into contact with it to become affected with the disease or contaminant.

(5) There is reason to suspect that livestock of a class susceptible to a disease are affected with the disease if—

- (a) they have, during a prescribed period—
 - (i) been pastured or kept together with other livestock on the same holding; or
 - (ii) been transported with other livestock in the same vehicle, vessel or aircraft; or
 - (iii) been kept together with other livestock in the same group; and
- (b) those other livestock are affected with the disease, or there is reason to suspect that the other livestock are affected with the disease.

Livestock Act 1997

- (6) There is reason to suspect that livestock are affected with a contaminant if—
- (a) they have, during a prescribed period—
 - (i) been pastured or kept together with other livestock on the same holding; or
 - (ii) been kept together with other livestock in the same group; and
 - (b) those other livestock are affected with the contaminant, or there is reason to suspect that the other livestock are affected with the contaminant.

(7) For the purposes of this section, a **prescribed period** is a period specified by the Minister by notice in the *Gazette*.

Interpretation—controlling or eradicating disease or contamination

6. (1) Action for the purposes of **controlling or eradicating disease or contamination** may include action taken for one or more of the following purposes:

- (a) investigating the existence or source of a disease or contaminant affecting livestock;
- (b) preventing or minimising the risk of the spread of a disease affecting livestock or of the introduction of such a disease into the State or part of the State;
- (c) preventing or minimising the risk of livestock or other property becoming affected or further affected with a contaminant;
- (d) freeing livestock from a disease or contaminant or reducing the effect of a disease or contaminant on livestock.

(2) This section does not limit the action that may be taken for the purposes of controlling or eradicating disease or contamination.

Application of Act

7. (1) The Minister may, by written notice to a person—

- (a) exempt the person from the application of a specified provision of this Act unconditionally or subject to specified conditions; and
- (b) vary or revoke a notice under this subsection.

(2) The provisions of this Act do not limit or derogate from any civil remedy at law or in equity.

PART 2
INDUSTRY INVOLVEMENT IN REGULATION

DIVISION 1—LIVESTOCK ADVISORY GROUPS

Establishment of livestock advisory groups

8. (1) The Minister may establish livestock advisory groups to represent the various sectors of the livestock industry.

(2) In determining the composition of a livestock advisory group to represent a particular sector of the livestock industry, the Minister must consult with members or representatives of that sector of the industry.

(3) A livestock advisory group will include at least one representative of the Minister.

(4) The Minister will assign a distinctive name to each livestock advisory group for the purposes of identifying the sector of the industry that the group represents.

Functions of livestock advisory groups

9. A livestock advisory group is to advise the Minister—

(a) either on its own initiative or at the request of the Minister, on the operation of this Act in relation to the sector of the livestock industry that it represents and in particular—

(i) the establishment and management of a fund for that sector and the method of collecting contributions (*see Part 2 Division 2*); and

(ii) the establishment and review of a code of practice for that sector (*see Part 2 Division 3*); and

(iii) the application to that sector of the provisions requiring registration of a person who keeps livestock (*see Part 3 Division 1*); and

(iv) the application to that sector of the provisions for implied terms and conditions of contracts for the sale of livestock, livestock products or livestock food relating to the health of livestock (*see Part 4 Division 5*); and

(v) the making of regulations relevant to that sector; and

(b) at the request of the Minister, on other issues directly related to the sector of the livestock industry that it represents.

Terms and conditions of membership and procedures

10. (1) The Minister may appoint a person as a member of a livestock advisory group on terms and conditions determined by the Minister.

(2) A livestock advisory group may determine its own procedures.

Annual reports

11. (1) Each livestock advisory group must, on or before 30 September in every year, forward to the Minister a report for the preceding financial year.

Livestock Act 1997

(2) The report must contain—

- (a) a report on the operation of this Act in relation to the sector of the industry that the group represents; and
- (b) any other information required by or under this or any other Act.

(3) The Minister must, within six sitting days after receiving a report under this section, cause a copy of the report to be laid before both Houses of Parliament.

(4) A livestock advisory group must ensure that its annual report or the information contained in it is made readily available to members of the sector of the livestock industry that the group represents.

* * * * *

DIVISION 3—INDUSTRY CODES OF PRACTICE

Codes of practice

16. (1) The regulations may prescribe a code of practice to be complied with by members of a particular sector of the livestock industry.

(2) Without limiting the generality of subsection (1), a code of practice may contain provisions about—

- (a) measures designed to promote or safeguard the health of livestock;
- (b) livestock management practices;
- (c) the provision of information to the Chief Inspector.

(3) Before a code of practice is prescribed (or varied or revoked) in relation to a particular sector of the livestock industry, the Minister must consult the livestock advisory group for that sector of the industry (if any).

**PART 3
REGISTRATION OF CERTAIN INDUSTRIES**

DIVISION 1—KEEPING LIVESTOCK

Requirement for registration to keep certain livestock

17. (1) A person must not keep livestock of a prescribed class unless the person is registered under this Part.

Maximum penalty: \$10 000.

(2) Subsection (1) does not apply to a person who keeps livestock at an abattoir or saleyard.

DIVISION 2—ARTIFICIAL BREEDING

Requirement for registration of artificial breeding centre

18. A person must not operate an artificial breeding centre unless the person is registered under this Part.

Maximum penalty: \$10 000.

Requirement for registration to perform artificial breeding procedure

19. (1) A person must not carry out an artificial breeding procedure on or in connection with livestock of a prescribed class unless the person is registered under this Part.

Maximum penalty: \$10 000.

(2) Subsection (1) does not apply to a veterinary surgeon.

DIVISION 3—VETERINARY DIAGNOSTIC LABORATORIES

Requirement for registration of veterinary diagnostic laboratory

20. A person must not operate a veterinary diagnostic laboratory unless the person is registered under this Part.

Maximum penalty: \$10 000.

DIVISION 4—GENERAL

Eligibility for registration

21. The regulations may prescribe—

- (a) minimum requirements that must be satisfied before a person is entitled to be registered under this Part; or
- (b) matters that the Chief Inspector must have regard to in deciding whether to register a person under this Part.

Application for registration

22. An application for registration under this Part must—

- (a) be made to the Chief Inspector; and
- (b) be in the form and contain or be accompanied by the information required by the Chief Inspector; and

Livestock Act 1997

(c) be accompanied by the fee fixed by, or calculated in accordance with, the regulations.

Term of registration and renewal

23. (1) Registration under this Part is for a term fixed by regulation.

(2) The registration may be renewed from time to time for a further term fixed by regulation.

Conditions of registration

24. (1) Registration under this Part is subject to any prescribed conditions and to any other conditions imposed by the Chief Inspector.

(2) Without limiting the generality of subsection (1), the conditions may—

(a) limit the activities that the registered person may carry on as a registered person;

(b) require the registered person to keep specified records.

(3) A condition of registration under this Part may be imposed, varied or revoked at any time by the Chief Inspector by written notice to the registered person.

(4) If a condition is imposed or varied after registration, the new condition or variation takes effect 30 days after notice is given to the registered person or at such earlier date as is agreed with the registered person.

(5) A person must not contravene or fail to comply with a condition of registration.

Maximum penalty: \$10 000.

Periodic returns

25. A person registered under this Part must provide the Chief Inspector with periodic returns of information as required by the regulations.

Maximum penalty: \$2 500.

Expiation fee: \$210.

Suspension or cancellation of registration

26. (1) If—

(a) a person ceases to be eligible for registration or was not, when registered, eligible for registration; or

(b) a person registered under this Part commits an offence against this Act,

the Chief Inspector may, by written notice to the person, suspend the registration until requirements specified in the notice are complied with or cancel the registration.

(2) A notice takes effect on a date specified in the notice, not being earlier than the date of service of the notice.

**PART 4
HEALTH OF LIVESTOCK**

DIVISION 1—NOTIFIABLE CONDITIONS

Requirement to report notifiable conditions

27. (1) If a person knows or has reason to suspect that livestock or livestock products owned by or under his or her control are affected with, or have died from, a notifiable condition, the person must—

- (a) report the existence or suspected existence of the notifiable condition to an inspector by the quickest practicable means; and
- (b) give the inspector further information reasonably required by the inspector; and
- (c) in the case of a notifiable disease—take all reasonable measures to control or eradicate the disease.

Maximum penalty: \$2 500.

Expiation fee: For an offence against paragraph (a) or (b)—\$210.

(2) If a veterinary surgeon or livestock consultant knows or has reason to suspect that livestock are affected with, or have died from, a notifiable condition, the veterinary surgeon or livestock consultant must—

- (a) report the existence or suspected existence of the notifiable condition to an inspector by the quickest practicable means; and
- (b) give the inspector further information reasonably required by the inspector.

Maximum penalty: \$2 500.

Expiation fee: \$210.

(3) A report is not required under this section in a particular case if the person knows or reasonably believes that a report has already been made to an inspector.

(4) No civil liability arises from a statement made in good faith in a report under this section.

Acts causing or likely to cause livestock to become affected with notifiable condition

28. A person who does an act intending that, or being recklessly indifferent as to whether, livestock become affected or further affected with a notifiable condition is guilty of an offence.

Maximum penalty:

In the case of an exotic disease—\$50 000 or imprisonment for 2 years;

In any other case—\$20 000 or imprisonment for 1 year.

Bringing notifiable disease into State

29. A person must not, without the approval of the Chief Inspector, bring a notifiable disease into the State or cause a notifiable disease to be brought into the State.

Maximum penalty:

In the case of an exotic disease—\$20 000;

In any other case—\$10 000.

Livestock Act 1997

Movement of livestock or livestock products affected with notifiable condition

30. (1) If—

- (a) livestock or livestock products are affected with a notifiable condition; or
- (b) there is reason to suspect that livestock or livestock products are affected with a notifiable condition,

the livestock or livestock products must not be brought into, removed from or moved within the State without the approval of the Chief Inspector.

(2) Subsection (1) does not apply to movement of livestock or livestock products within a holding.

(3) If livestock or livestock products are brought into, removed from or moved within the State in contravention of subsection (1), the following persons are each guilty of an offence:

- (a) the owner of the livestock or livestock products; and
- (b) the person in control of the livestock or livestock products; and
- (c) any person who caused the livestock or livestock products to be brought into, removed from or moved within the State in contravention of the subsection.

Maximum penalty:

In the case of an exotic disease—\$20 000;

In any other case—\$10 000.

Supply of livestock or livestock products affected with notifiable condition

31. A person must not, without the approval of the Chief Inspector, sell or supply livestock or livestock products affected with a notifiable condition.

Maximum penalty:

In the case of an exotic disease—\$20 000;

In any other case—\$10 000.

Feeding of products that may cause livestock to become affected with notifiable condition

32. A person must not, without the approval of the Chief Inspector—

- (a) feed to livestock or permit livestock to feed on a product that may cause the livestock to become affected with a notifiable condition; or
- (b) dispose of a product in a manner that livestock may gain access to it if the product may cause livestock that consume it to become affected with a notifiable condition; or
- (c) sell or supply food for livestock that could, if consumed by livestock of a class for which the food is intended in the manner intended, cause the livestock to become affected with a notifiable condition.

Maximum penalty: \$10 000.

DIVISION 2—RESTRICTIONS ON ENTRY OF LIVESTOCK OR OTHER PROPERTY

Prohibition on entry of livestock or other property absolutely or without required health certificate, etc.

33. (1) For the purposes of controlling or eradicating disease or contamination, the Minister may, by notice in the *Gazette*, prohibit entry into the State or a specified part of the State of livestock, livestock products, or other property, of a specified class—

- (a) absolutely; or
- (b) subject to the condition that specified documentation accompany the livestock, livestock products or other property en route into the State or specified part of the State; or
- (c) subject to any other condition.

(2) A notice may be issued under this section if the Minister decides in his or her absolute discretion that the issuing of the notice is justified in the circumstances.

(3) If documentation does not accompany livestock, livestock products or other property as required under this section, the following persons are each guilty of an offence:

- (a) the owner of the livestock, livestock products or other property; and
- (b) the person in control of the livestock, livestock products or other property; and
- (c) any person who caused the livestock, livestock products or other property to be brought into the State or specified part of the State unaccompanied by the relevant documentation.

Maximum penalty: \$5 000.

Expiation fee: \$315.

(4) If documentation is required to accompany livestock, livestock products or other property under this section, the owner of the livestock, livestock products or other property must ensure that the relevant documentation is retained for a period of 12 months after the livestock, livestock products or other property enters the State or specified part of the State.

Maximum penalty: \$2 500.

Expiation fee: \$210.

(5) If livestock, livestock products or other property is brought into the State or specified part of the State in contravention of a notice under this section (other than a contravention referred to in subsection (3)), the following persons are each guilty of an offence:

- (a) the owner of any livestock, livestock products or other property; and
- (b) the person in control of the livestock, livestock products or other property; and
- (c) any person who caused the livestock, livestock products or other property to be brought into the State or specified part of the State in contravention of the notice.

Maximum penalty:

If the notice is expressed to be issued for the purposes of controlling or eradicating exotic disease—\$20 000 or imprisonment for 1 year;

In any other case—\$10 000.

Livestock Act 1997

DIVISION 3—INVESTIGATIONS

Investigation by inspector

34. An inspector may carry out an investigation as reasonably necessary for the purposes of—

- (a) identifying the cause of death or of a condition affecting livestock;
- (b) determining whether or not livestock or other property is or remains affected with a disease or contaminant;
- (c) identifying or tracing a source likely to cause or to have caused livestock or other property to be affected with a disease or contaminant.

Investigation by owner or occupier of land

35. (1) An owner or occupier of land may—

- (a) detain and examine livestock on the land; and
- (b) if, after the examination, the owner or occupier has reason to suspect that the livestock are affected with a disease or contaminant—detain the livestock until an inspector arrives.

(2) If livestock detained under subsection (1)(b) are found to be affected with a disease or contaminant, the owner or occupier of the land may recover costs and expenses reasonably incurred in the detention and keeping of the livestock as a debt owed by the owner of the livestock.

(3) A person must not hinder or obstruct an owner or occupier of land in the exercise of powers under this section.

Maximum penalty: \$5 000.

DIVISION 4—CONTROL OR ERADICATION OF DISEASE OR CONTAMINATION

Guidelines for taking action under this Division

36. (1) In taking action under this Division, the Minister, the Chief Inspector or an inspector must have regard to—

- (a) in the case of exotic disease—the strategies agreed on a national basis between responsible Ministers for addressing an outbreak or suspected outbreak of the disease;
- (b) in any other case—the gravity of the consequences of the disease or contamination for—
 - (i) public health; and
 - (ii) the health of livestock and native or feral animals; and
 - (iii) the livestock industry both in the domestic market and the international market;
- (c) in any case—guidelines approved by the Minister.

Gazette notices

37. (1) For the purposes of controlling or eradicating disease or contamination, the Minister may, by notice in the *Gazette*, impose—

- (a) one or more requirements of the kinds set out in Schedule 1; or
 - (b) any other requirement reasonably required in the circumstances.
- (2) The notice must state the period for which it will remain in force.
- (3) The Chief Inspector may—
- (a) cause the notice or information about the notice to be published in a newspaper circulating throughout the area concerned or generally throughout the State; and
 - (b) cause signs setting out the terms of the notice or information about the notice to be erected as the Chief Inspector considers appropriate.

(4) A person who, without the approval of the Chief Inspector, contravenes or fails to comply with a notice under this section is guilty of an offence.

Maximum penalty:

If the notice is expressed to be issued for the purposes of controlling or eradicating a disease that is an exotic disease—\$20 000;
In any other case—\$10 000.

(5) A person must not hinder or obstruct a person complying with a notice under this section.

Maximum penalty: \$5 000.

Individual orders

38. (1) If an inspector knows or has reason to suspect that livestock, livestock products or other property is affected with, or in danger of becoming affected with, a disease or contaminant, the inspector may issue an order under this section for the purposes of controlling or eradicating the disease or contamination.

- (2) The order—
- (a) subject to subsection (3), must be in the form of a written order served on the person to whom it is issued; and
 - (b) must specify the person to whom it is issued (whether by name or a description sufficient to identify the person); and
 - (c) must state the purpose for which it is issued and identify the disease or contaminant to which it relates; and
 - (d) may, for the purposes of controlling or eradicating the disease or contamination, impose—
 - (i) one or more requirements of the kinds set out in Schedule 1; or
 - (ii) any other requirement reasonably required in the circumstances.

Livestock Act 1997

(3) The order may be issued orally if the inspector is of the opinion that urgent action is required, but in that event, the order will cease to have effect on the expiration of 72 hours from the time of its issuing unless confirmed by a written order served on the person.

(4) An inspector may, by written order served on a person to whom an order has been issued under this section, vary or revoke the order.

(5) A person to whom an order is issued under this section must comply with the order.

Maximum penalty:

If the order is expressed to be issued for the purposes of controlling or eradicating a disease that is an exotic disease—\$20 000;
In any other case—\$10 000.

(6) A person who does an act in contravention of the terms of a sign erected as required by an order under this section is guilty of an offence.

Maximum penalty: \$5 000.

(7) A person must not hinder or obstruct a person complying with an order under this section.

Maximum penalty: \$5 000.

Action on default

39. (1) If a person who is required to take action in compliance with a notice or order under this Division refuses or fails to do so, an inspector may take the action required to be taken by that person, with or without assistance, or cause that action to be taken.

(2) The Chief Inspector may recover costs and expenses reasonably incurred by an inspector under subsection (1) as a debt owed by the person of whom the requirement was made.

Action in emergency situations

40. (1) If an inspector considers on reasonable grounds that urgent action is required for the purposes of controlling or eradicating disease or contamination, the inspector may, after giving such notice (if any) as may be reasonable in the circumstances, take any action that could be required to be taken by notice or order under this Division or cause such action to be taken.

(2) Action may be taken or caused to be taken under this section whether or not an order or notice has been issued in relation to the disease or contamination under this Division.

Action where no person in charge and owner cannot be located

41. (1) If—

(a) an inspector knows or has reason to suspect that livestock, livestock products or other property is affected with, or in danger of becoming affected with, a disease or contaminant; and

(b) there is no person apparently in charge of the livestock, livestock products or other property and the owner of the livestock, livestock products or other property cannot be located after reasonable inquiry,

the inspector may take any action that could be required to be taken by notice or order under this Division or cause such action to be taken.

(2) The Chief Inspector may recover costs and expenses reasonably incurred by an inspector under subsection (1) as a debt owed by the owner of the livestock, livestock products or other property in respect of which the action was taken or caused to be taken.

Exercising powers in relation to native or feral animals

42. (1) If, in the opinion of the Chief Inspector, it is necessary for the purposes of controlling or eradicating disease or contamination that native or feral animals (including birds, fish or insects) be subjected to treatment or be destroyed, the Chief Inspector may cause action to be taken by an inspector or other person for the treatment or destruction of the animals.

(2) An order may not be issued by an inspector under this Division requiring action to be taken in relation to native or feral animals (including birds, fish or insects) except with the approval of the Chief Inspector.

(3) Notices or orders may be issued, or action taken or caused to be taken, under this Division in relation to native animals despite the fact that the animals are protected under any other law.

(4) However, before a notice or order is issued, or action taken or caused to be taken, under this Division in relation to native animals, the Minister or Chief Inspector must (except in urgent circumstances) consider the views of the Minister responsible for administration of the *National Parks and Wildlife Act 1972*.

(5) No criminal or civil liability attaches to a person in respect of compliance with a notice or order under this Division requiring action to be taken in relation to native or feral animals.

Limitation on destruction or disposal of livestock or other property

43. (1) An inspector may not issue an order, take action, or cause action to be taken, under this Division for the destruction or disposal of—

- (a) livestock; or
- (b) livestock products; or
- (c) livestock food; or
- (d) equipment or articles used in relation to livestock (such as halters or rugs),

except with the consent of the owner of the property or the approval of the Chief Inspector.

(2) An inspector may not issue an order, take action, or cause action to be taken, under this Division for the destruction, demolition or disposal of any other kind of property except with the consent of the owner of the property or on the authority of a warrant issued by a magistrate.

(3) A magistrate must not issue a warrant under subsection (2) unless satisfied that the warrant is reasonably required in the circumstances of the case.

Limitation on proceedings in case of exotic disease

44. (1) No proceedings may be instituted or continued to prevent the taking of any action, or to compel the taking of any action, if the taking of that action, or the refusal or omission to take that action, is or is purportedly in pursuance of a notice or order expressed to be issued under this Division for the purposes of controlling or eradicating a disease that is an exotic disease.

(2) Nothing in this section prevents proceedings for the recovery of damages in respect of loss incurred or damage suffered as a result of an act or omission that is not required or authorised by a notice or order under this Division.

Livestock Act 1997

**DIVISION 5—IMPLIED CONTRACTUAL TERMS AND CONDITIONS
AS TO HEALTH OF LIVESTOCK**

Implied contractual terms and conditions

45. (1) The regulations may prescribe contractual terms and conditions providing for rights and liabilities of purchasers and vendors of livestock, livestock products, or livestock food, of a prescribed class in relation to the health of the livestock or the quality of the livestock products or livestock food.

(2) Contractual terms and conditions prescribed by regulations under this Division in relation to a class of livestock, livestock products or livestock food will be implied into each contract for the sale of livestock, livestock products, or livestock food, of that class entered into while the regulations are in force.

(3) However, the parties to such a contract may agree to exclude or modify the implied terms and conditions.

DIVISION 6—MISCELLANEOUS

Feeding of animal products in certain circumstances

46. (1) A person must not—

- (a) feed to livestock or permit livestock to feed on a product that consists of, or contains material from, a placental mammal unless the product has been treated or processed in a manner approved by the Chief Inspector; or
- (b) dispose of a product that consists of, or contains material from, a placental mammal in a manner that livestock may gain access to it; or
- (c) feed to a ruminant or permit a ruminant to feed on a product that consists of, or contains material from, a ruminant; or
- (d) dispose of a product that consists of, or contains material from, a ruminant in a manner that a ruminant may gain access to it; or
- (e) feed to livestock or permit livestock to feed on a product that consists of or contains faeces.

Maximum penalty: \$10 000.

(2) This section does not apply to milk, cream, cheese or other dairy products.

PART 5
EXOTIC DISEASES ERADICATION FUND

Establishment of Fund

47. (1) The *Exotic Diseases Eradication Fund* is established.

(2) The Fund must be kept as directed by the Treasurer.

(3) The Fund is to consist of the following money:

(a) money in *The Foot and Mouth Disease Eradication Fund* at the commencement of this section;

(b) money received from the Commonwealth or a State or a Territory of the Commonwealth in accordance with an intergovernmental agreement for sharing the costs of control or eradication of exotic disease;

(c) money advanced to the Fund by the Treasurer from the Consolidated Account (which is appropriated to the necessary extent);

(d) income from investment of money belonging to the Fund.

(4) Money constituting or forming part of the Fund may be invested as directed by the Treasurer.

Application of Fund

48. The Fund may be applied in payment of—

(a) expenses directly connected with the control or eradication of exotic disease (excluding the salaries or wages of persons employed in the public sector who are or would be employed irrespective of the outbreak or suspected outbreak of exotic disease);

(b) compensation under this Part;

(c) expenses incurred in assessing compensation payable under this Part;

(d) contributions to the Commonwealth or another State or a Territory of the Commonwealth under an intergovernmental agreement for sharing the costs of control or eradication of exotic disease.

Claims for compensation from Fund

49. (1) The following persons may claim compensation under this Part:

(a) an owner of livestock certified by an inspector—

(i) as having died of a declared exotic disease; and

(ii) as being livestock that would have, had they not died, been destroyed for the purposes of controlling or eradicating a declared exotic disease during a declared period; or

(b) an owner of livestock or other property destroyed in accordance with a notice or order issued under Part 4 Division 4, or by action taken or caused to be taken by an inspector under Part 4 Division 4, for the purposes of controlling or eradicating a declared exotic disease during a declared period.

Livestock Act 1997

- (2) The amount of compensation that may be claimed is—
- (a) in the case of livestock that were, immediately before their death or destruction during a declared period, pastured or kept on the same holding—
 - (i) the total value of the livestock immediately before the earliest of—
 - (A) the date on which the existence or suspected existence of the exotic disease in livestock pastured or kept on the holding was first reported to an inspector or veterinary surgeon; or
 - (B) the date on which an inspector first suspected or found livestock pastured or kept on the holding to be affected with the exotic disease; or
 - (C) the date on which restrictions prohibiting livestock being moved from or to the holding were imposed under Part 4 Division 4 for the purposes of controlling or eradicating the exotic disease; or
 - (ii) the total value of the livestock on the date at which the holding ceased to be subject to restrictions prohibiting restocking imposed under Part 4 Division 4 for the purposes of controlling or eradicating the exotic disease;
 - (b) in the case of other livestock—to be determined in a manner approved by the Minister;
 - (c) in the case of other property—the value of the property immediately before destruction.

(3) Livestock or other property is to be valued—

- (a) as if it had not been affected by the exotic disease; and
- (b) in the case of livestock or livestock products—having regard to the value of comparable livestock or products at the nearest most recent markets selling livestock or products of that kind, whether those markets are in the State or in any other State or Territory of the Commonwealth; and
- (c) using a method of valuation determined by the Minister.

(4) Compensation may not include any amount for loss of profit or production, loss arising from breach of contract or other consequential loss.

(5) No further compensation is payable by the Crown for any livestock or other property for which compensation has been paid under this Part and no proceedings lie against the Crown for compensation in respect of the death or destruction of livestock or other property in connection with exotic disease other than under this Part.

(6) In this section—

"declared exotic disease" means an exotic disease declared by the Minister by notice in the *Gazette* to be a declared exotic disease for the purposes of this Part;

"declared period" means a period declared by the Minister by notice in the *Gazette* to be a declared period in relation to a declared exotic disease for the purposes of this Part, being a period that—

- (a) commences on a day specified in the notice; and

- (b) ends on a day specified in that notice or a subsequent notice in the *Gazette*;

"owner" of livestock or other property means a person who has (whether alone or jointly or severally with others) title or an interest or right to or in the livestock or other property, but does not include a mortgagee not in possession.

Procedure for making claim and determination of claim

50. (1) A claim for compensation must be made to the Chief Inspector within—

- (a) in the case of a claim relating to livestock that were, immediately before their death or destruction during a declared period, pastured or kept on the same holding—90 days after the last of those livestock died or were destroyed;
- (b) in any other case—90 days after the death or destruction of the livestock or other property the subject of the claim.

(2) Only one claim may be made in relation to all livestock in the same ownership that were, immediately before their death or destruction during a declared period, pastured or kept on the same holding.

(3) Despite any other provisions of this Part, if such a claim has been determined before the date on which the holding ceased to be subject to restrictions prohibiting restocking imposed under Part 4 Division 4 for the purposes of controlling or eradicating the exotic disease, the claimant may, within 30 days after that date, make a claim for further compensation based on the total value of the livestock at the date on which the holding ceased to be subject to the restrictions.

(4) The Chief Inspector may, if satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that a claim be made within the period fixed by this section.

(5) A claim for compensation must be made in the form and contain or be accompanied by the information required by the Chief Inspector.

(6) The Chief Inspector may, with the approval of the Minister, determine that no compensation, or a reduced amount of compensation, is payable to a claimant if the claimant (or in the case of a body corporate claimant, a director of the body corporate) has been convicted of an offence (whether against this Act or the law of another jurisdiction) relating to the outbreak or suspected outbreak of the exotic disease in relation to which the claim for compensation has been made.

(7) The Chief Inspector may, with the approval of the Minister, delay determining a claim for compensation pending the investigation or prosecution of any suspected or alleged offence of a kind referred to in subsection (6).

(8) The Chief Inspector must, by written notice, inform the claimant of the Chief Inspector's determination of the claim (separately specifying the amount of compensation payable for particular livestock or property and the amount of any reduction under subsection (6)).

Appeal against Chief Inspector's determination of claim

51. (1) The claimant may, within 21 days after receiving notice of the Chief Inspector's determination, appeal to the Minister against the determination of the amount of compensation payable for particular livestock or property (but not against a determination that no compensation or a reduced amount of compensation is payable as a result of a conviction for an offence).

(2) If an appeal is not instituted within the time allowed, the claimant's entitlement to compensation is finally determined for the purposes of this Part.

Livestock Act 1997

(3) On receiving an appeal under this section, the Minister must establish a panel to hear and determine the appeal.

(4) The panel is to consist of—

- (a) a person nominated by the Chief Executive of the administrative unit responsible for administration of this Part; and
- (b) a person who, in the opinion of the Minister, has experience or qualifications relevant to valuation of the type of property subject to the appeal; and
- (c) a person who, in the opinion of the Minister, has experience or qualifications relevant to the sector of the livestock industry affected by the outbreak or suspected outbreak of exotic disease.

(5) A decision of the majority of the members of the panel is a decision of the panel.

(6) On an appeal, the panel may affirm or quash the determination appealed against or substitute a determination that the panel thinks appropriate.

(7) A decision of the panel is final and not subject to review and a determination of the Chief Inspector is not subject to review other than by way of appeal under this section.

PART 6¹
SPECIAL PROVISIONS RELATING TO BEES

Reservation of Kangaroo Island for pure Ligurian bees

52. A person must not keep in or bring into, or cause to be kept in or brought into, Kangaroo Island bees other than pure Ligurian bees.

Maximum penalty: \$10 000.

Reservation of other areas for classes of bees by proclamation

53. (1) The Governor may, by proclamation, declare that only bees of a specified class may be kept in or brought into a specified area of the State.

(2) A proclamation under this section may be varied or revoked by subsequent proclamation.

(3) A person who keeps bees in or brings bees into, or causes bees to be kept in or brought into, an area of the State in contravention of a proclamation under this section is guilty of an offence.

Maximum penalty: \$10 000.

Prohibition against keeping bees in specified areas of State

54. (1) The Governor may, by proclamation, prohibit (absolutely or conditionally) the keeping of bees within a specified area of the State for the purpose of assisting the dried fruits industry.

(2) A proclamation under this section may be varied or revoked by subsequent proclamation.

(3) A person who keeps bees in, or causes bees to be kept in, an area of the State in contravention of a proclamation under this section is guilty of an offence.

Maximum penalty: \$10 000.

¹ Part 6 had not been brought into operation at the date of this reprint.

Livestock Act 1997

PART 7¹
BRANDS

Registers of brands

55. (1) *The Chief Inspector must keep registers of brands in relation to prescribed classes of livestock.*

(2) *Separate registers are to be kept for the different classes of livestock.*

(3) *Each register must record—*

(a) *a description of the brand; and*

(b) *the name and address of a person who is to be taken to be the owner of the registered brand.*

Applications

56. *An application for registration, or renewal of registration, of a brand or for consent to the transfer of a registered brand must—*

(a) *be made to the Chief Inspector; and*

(b) *be in the form and contain or be accompanied by the information required by the Chief Inspector; and*

(c) *be accompanied by the fee fixed by regulation.*

Refusal to register brand

57. *The Chief Inspector may refuse to register a brand if satisfied that—*

(a) *the brand could be mistaken for, or easily altered to appear to be—*

(i) *another brand registered in the same register in some other person's name; or*

(ii) *a brand of a kind used for official purposes; or*

(b) *the brand does not comply with the requirements of the regulations; or*

(c) *some other requirement of the regulations is not satisfied.*

Term of registration of brand and renewal

58. (1) *Registration of a brand is for a term fixed by regulation.*

(2) *Registration may be renewed from time to time for a further term fixed by regulation.*

Exclusive use of registered brand

59. *A person registered as owner of a brand is entitled to the exclusive use of the brand for application to livestock of the class in respect of which the brand is registered.*

Transfer of ownership of registered brand

60. (1) *A registered brand may not be transferred to another without the consent of the Chief Inspector.*

¹ Part 7 had not been brought into operation at the date of this reprint.

(2) Consent may only be withheld if the person to whom the brand is to be transferred would not be entitled under the regulations to be registered as owner of the brand.

(3) If a person registered as the owner of a brand dies, the personal representative of the person will, on application, be registered as the owner of the brand.

Cancellation of registration of brand

61. The Chief Inspector may cancel registration of a brand—

- (a) with the authority of the person registered as owner of the brand; or
- (b) if a written request seeking authority to cancel the registration has been served on the person registered as owner of the brand or that person's personal representative and the Chief Inspector has not received any written objections to the cancellation within the time (not less than one month) allowed by the request; or
- (c) if a body corporate registered as owner of the brand has been wound up or dissolved; or
- (d) if satisfied that registration of the brand was obtained improperly.

Offence to use registered brand of another

62. (1) A person must not mark livestock, or cause or permit livestock to be marked—

- (a) with a brand registered in relation to livestock of the same class in the name of a person other than the owner of the livestock; or
- (b) in a manner that could be mistaken for a brand registered in relation to livestock of the same class in the name of a person other than the owner of the livestock.

Maximum penalty: \$10 000.

(2) A person must not, without lawful authority, destroy or deface a registered brand marked on livestock or on hide or skin of livestock products.

Maximum penalty: \$10 000.

**PART 8
ADMINISTRATION AND ENFORCEMENT**

DIVISION 1—ADMINISTRATION

Appointments

63. (1) The Minister may appoint—

- (a) a Chief Inspector of Stock; and
- (b) deputy Chief Inspectors of Stock; and
- (c) inspectors.

(2) An appointment may be made subject to conditions specified in the instrument of appointment.

(3) The Minister may, at any time, revoke an appointment or vary, revoke or add a condition of an appointment.

(4) A deputy Chief Inspector of Stock has all the powers and functions of the Chief Inspector of Stock under this or any other Act.

Identification of inspectors

64. (1) An inspector must be issued with an identity card—

- (a) containing the person's name and a photograph of the person; and
- (b) stating that the person is an inspector for the purposes of this Act.

(2) If the powers of an inspector have been limited by conditions, the identity card issued to the inspector must contain a statement of the limitation on the inspector's powers.

(3) An inspector must, at the request of a person in relation to whom the inspector intends to exercise any powers under this or any other Act, produce for the inspection of the person his or her identity card.

Analysts

65. The Chief Inspector may approve a person as an analyst for the purposes of this Act.

Delegations

66. (1) The Minister may delegate any power or function under this Act to—

- (a) another Minister; or
- (b) the Chief Inspector; or
- (c) any person or body or any person or body of a class specified in the delegation.

(2) The Chief Inspector may delegate any power or function under this or any other Act to any person or body or to any person or body of a class specified in the delegation.

(3) A delegation under this section—

- (a) must be by instrument in writing; and

- (b) may be absolute or conditional; and
- (c) does not derogate from the power of the delegator to act in any matter; and
- (d) is revocable at will by the delegator.

Immunity from personal liability

67. (1) No personal liability attaches to an inspector or any other person engaged in the administration or enforcement of this Act for an act or omission in good faith in the exercise or discharge, or purported exercise or discharge, of a power or function under this Act.

(2) A liability that would, but for subsection (1), lie against a person, lies instead against the Crown.

DIVISION 2—GENERAL POWERS OF INSPECTORS

General powers of inspectors

68. (1) An inspector may exercise the powers conferred by this section for the purposes of—

- (a) carrying out an investigation under this Act;
- (b) evaluating the facilities and equipment used in or in connection with, or the processes or procedures carried out at, an artificial breeding centre or veterinary diagnostic laboratory;
- (c) otherwise administering or enforcing this Act.

(2) An inspector may—

- (a) enter and search any place;
- (b) with the authority of a warrant issued under this section or in circumstances in which the inspector reasonably believes that immediate action is required, use reasonable force to break into or open any part of, or anything in or on, the place;
- (c) give directions with respect to the stopping or movement of a vehicle, vessel or aircraft;
- (d) take photographs, films or audio, video or other recordings;
- (e) require a person—
 - (i) to answer a question to the best of that person's knowledge, information and belief;
 - (ii) to take reasonable steps to provide information;
- (f) require a person who the inspector reasonably suspects has committed, is committing or is about to commit, an offence against this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity;
- (g) require a person registered or required to be registered under this Act to produce the certificate of registration for inspection;
- (h) require a person to produce a record (including a written record that reproduces in an understandable form information stored by computer, microfilm or other process);

Livestock Act 1997

- (i) examine, copy or take extracts from a record or require a person to provide a copy of a record;
- (j) remove and retain a record for so long as is reasonably necessary for the purpose of making a copy of the record;
- (k) examine, take samples from, test or carry out a veterinary procedure on livestock or other property and, if reasonably necessary for that purpose—
 - (i) require the owner or person in charge of the livestock or other property to take it, or a sample of a specified kind from it, to a specified place;
 - (ii) destroy or cause the death of livestock (but not a greater number than is reasonably necessary);
- (l) examine, take samples from, test or carry out a veterinary procedure on any native or feral animal (including any bird, fish or insect) and, if reasonably necessary for that purpose, destroy or cause the death of the animal notwithstanding that it may be protected under any other law;
- (m) identify, by marking, tagging or otherwise, livestock or other property in respect of which powers have been exercised under this Act;
- (n) seize and retain, or issue a seizure order in respect of, anything that the inspector reasonably suspects has been, is being or is about to be used in, is intended for use in, or may constitute evidence of, an offence against this Act (including livestock, livestock products or other property that the inspector reasonably suspects has been brought into a place, removed from a place, or moved from one place to another, in contravention of this Act);
- (o) use reasonable force to prevent the commission of an offence against this Act;
- (p) give directions reasonably required in connection with the exercise of a power conferred by this Act.

(3) A magistrate may issue a warrant for the purposes of subsection (2)(b) if satisfied that the warrant is reasonably required in the circumstances.

(4) In the exercise of powers under this Act an inspector may be assisted by such persons as the inspector considers necessary in the circumstances.

(5) An inspector may require an occupier of a place or a person apparently in charge of any property to give to the inspector or a person assisting the inspector such assistance as is reasonably required for the effective exercise of powers conferred by this Act.

(6) An inspector (who is not a veterinary surgeon) must not carry out any veterinary treatment within the meaning of the *Veterinary Surgeons Act 1985* unless authorised by the Chief Inspector to carry out veterinary treatment of that kind.

(7) If a person refuses or fails to comply with a requirement of an inspector under this section, the inspector may take the action required to be taken, with or without assistance, or cause the action to be taken.

(8) The Chief Inspector may recover costs and expenses reasonably incurred by an inspector under subsection (7) as a debt owed by the person of whom the requirement was made.

Provisions relating to seizure

69. (1) A seizure order under this Division—

- (a) must be in the form of a written notice served on the owner or person in charge of the property to which the order relates; and
- (b) may be varied or revoked by further such written notice.

(2) If a seizure order is issued under this Division, a person who removes or interferes with the property to which the order relates without the approval of the Chief Inspector before an order is made under this section in respect of the property or the seizure order is discharged is guilty of an offence.

Maximum penalty: \$5 000.

(3) If property has been seized or made subject to a seizure order under this Division the following provisions apply:

(a) subject to subsection (4), seized property must be held pending proceedings for an offence against this Act related to the property seized, unless the Chief Inspector, on application, authorises its release to—

- (i) the person from whom it was seized; or
- (ii) any person who had legal title to it at the time of its seizure,

subject to such conditions as the Chief Inspector thinks fit (including conditions as to the giving of security for satisfaction of an order under paragraph (b)(ii), requiring payment of costs and expenses reasonably incurred in relation to it or requiring its removal from the State or a specified area);

(b) if proceedings for an offence against this Act relating to the property are instituted within the prescribed period after its seizure or the issuing of the seizure order and the defendant is found guilty of the offence, the court may (if the property has not been destroyed or disposed of under subsection (4))—

- (i) order that the property be forfeited to the Crown; or
- (ii) if the property has been released under paragraph (a) or is the subject of a seizure order—order that it be forfeited to the Crown or that the person to whom it was released or the defendant pay to the Minister an amount equal to its market value at the time of its seizure or the issuing of the seizure order, as the court thinks fit;

(c) if—

(i) proceedings are not instituted for an offence against this Act relating to the property within the prescribed period after its seizure or the issuing of the seizure order; or

(ii) proceedings have been so instituted and—

- (A) the defendant is found not guilty of the offence; or

Livestock Act 1997

- (B) the defendant is found guilty of the offence but no order for forfeiture is made under paragraph (b),

then—

- (iii) in the case of seized property that has not been destroyed or otherwise disposed of under subsection (4)—the person from whom it was seized, or any person with legal title to it, is entitled to recover from the Minister (if necessary, by action in a court of competent jurisdiction) the property itself, or if it has been damaged or destroyed or has deteriorated, compensation of an amount equal to its market value at the time of its seizure; or

- (iv) in the case of property subject to a seizure order—the order is discharged.

(4) If property seized is affected with a disease or contaminant or there is reason to suspect that it is affected with a disease or contaminant, the property may—

- (a) be cleansed, disinfected or otherwise treated; or
- (b) with the authority of the Chief Inspector or the owner of the property—be destroyed or otherwise disposed of.

(5) In subsection (3)—

"**prescribed period**" means six months or such longer period as the Magistrates Court may, on application by the Minister, allow.

Offence to hinder, etc., inspectors

70. A person who—

- (a) hinders or obstructs an inspector, or a person assisting an inspector, in the exercise of powers conferred by this Act; or
- (b) uses abusive, threatening or insulting language to an inspector or a person assisting an inspector; or
- (c) refuses or fails to comply with a requirement or direction of an inspector under this Act; or
- (d) when required by an inspector under this Act to answer a question, refuses or fails to answer the question to the best of the person's knowledge, information or belief; or
- (e) falsely represents, by words or conduct, that he or she is an inspector,

is guilty of an offence.

Maximum penalty: \$5 000.

Self-incrimination

71. (1) It is not an excuse for a person to refuse or fail to answer a question or to produce, or provide a copy of, a record or information as required under this Part on the ground that to do so might tend to incriminate the person or make the person liable to a penalty.

(2) However, if the person objects to answering the question or to producing, or providing a copy of, a record or information on that ground, then—

- (a) in the case of a person who is required to produce, or provide a copy of, a record or information—the fact of production, or provision of a copy of, the record or the information (as distinct from the contents of the record or the information); or
- (b) in any other case—the answer given in compliance with the requirement,

is not admissible in evidence against the person in proceedings for an offence or for the imposition of a penalty (other than proceedings in respect of the making of a false or misleading statement).

DIVISION 3—COMPLIANCE NOTICES

Compliance notices

72. (1) An inspector may issue a notice under this Division for the purpose of securing compliance with a requirement imposed by or under this Act (including a requirement imposed by condition of registration or an approval or other authority).

(2) A notice under this Division—

- (a) subject to subsection (3), must be in the form of a written notice served on the person to whom the notice is issued; and
- (b) must specify the person to whom it is issued (whether by name or a description sufficient to identify the person); and
- (c) must give details of the requirement to which it relates; and
- (d) may impose any requirement reasonably required for the purpose for which the notice is issued, including—
 - (i) a requirement that the person discontinue, or not commence, a specified activity indefinitely or for a specified period or until further notice from the Chief Inspector;
 - (ii) a requirement that the person not carry on a specified activity except subject to specified conditions;
 - (iii) a requirement that the person take specified action within a specified period; and
- (e) must state that the person may, within 14 days, appeal to the Administrative and Disciplinary Division of the District Court against the notice.

(3) A notice under this Division may be issued orally if the inspector is of the opinion that urgent action is required, but in that event, the notice will cease to have effect on the expiration of 72 hours from the time of its issuing unless confirmed by a written notice served on the person.

(4) The Chief Inspector may, by written notice served on a person to whom a notice has been issued under this Division, vary or revoke the notice.

(5) A person to whom a notice is issued under this Division must comply with the notice.

Maximum penalty: \$10 000 or imprisonment for 2 years.

Livestock Act 1997

(6) A person must not hinder or obstruct a person complying with a notice issued under this Division.

Maximum penalty: \$5 000.

(7) If a person who is required to take action in compliance with a notice under this Division refuses or fails to do so, an inspector may take the action required to be taken by that person, with or without assistance, or cause that action to be taken.

(8) The Chief Inspector may recover costs and expenses reasonably incurred by an inspector under subsection (7) as a debt owed by the person of whom the requirement was made.

**PART 9
APPEALS**

Appeals

73. (1) An appeal to the Administrative and Disciplinary Division of the District Court may be made—

- (a) by an applicant for the grant or renewal of registration under Part 3 or 7 against a decision by the Chief Inspector to refuse to grant or renew the registration or to impose a condition on the registration; or
- (b) by a person registered under Part 3 or a person registered as the owner of a brand under Part 7 against a decision by the Chief Inspector to suspend or cancel the registration or to impose or vary a condition of registration; or
- (c) by a person to whom a compliance notice has been issued under Part 8 Division 3 against the decision to issue the notice.

(2) The Court may, in exercising its jurisdiction under this Part, be constituted of a Magistrate.

(3) If the Chief Inspector does not give reasons in writing for a decision referred to in subsection (1)(a) or (b) when the decision is made, the Chief Inspector must do so on request made by the applicant or registered person within one month of the making of the decision.

(4) An appeal must be instituted—

(a) in the case of an appeal against a decision of the Chief Inspector—

- (i) within one month of the making of the decision being appealed against; or
- (ii) if a request for reasons in writing for the decision has been made under subsection (3)—within one month of the receipt of the reasons in writing; or

(b) in the case of an appeal against a decision to issue a compliance notice—within 14 days of receipt of the notice.

(5) The Court may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that an appeal be instituted within the period fixed by this section.

(6) Except as determined by the Court, an appeal is to be conducted by way of a fresh hearing and for that purpose the Court may receive evidence given orally or, if the Court so determines, by affidavit.

(7) The Court may, on the hearing of an appeal—

- (a) affirm, vary or quash the decision appealed against or substitute, or make in addition, any decision that the Court thinks appropriate; and
- (b) make an order as to any other matter that the case requires (including an order for costs).

Operation and implementation of decisions subject to appeal

74. (1) Subject to subsection (2), the making of an appeal under this Part against a decision does not affect the operation of the decision or prevent the taking of action to implement the decision.

Livestock Act 1997

(2) The Court may, on application by a party to an appeal, make an order staying or otherwise affecting the operation or implementation of the whole or a part of the decision appealed against if the Court is satisfied that it is appropriate to do so.

(3) An order under this section—

(a) may be varied or revoked by the Court by further order;

(b) is subject to such conditions as are specified in the order;

(c) has effect until—

(i) the end of the period of operation (if any) specified in the order; or

(ii) the decision of the Court on the appeal comes into operation,

whichever is the earlier.

(4) The Court must not make an order under this section unless each party to the appeal has been given a reasonable opportunity to make submissions in relation to the matter.

**PART 10
MISCELLANEOUS**

False or misleading information

75. A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information furnished, or record kept, under this Act.

Maximum penalty:

If the person made the statement knowing that it was false or misleading—\$10 000;

In any other case—\$5 000.

Statutory declarations

76. If a person is required by or under this Act to furnish information to the Chief Inspector, the Chief Inspector may require that the information be verified by statutory declaration and, in that event, the person will not be taken to have furnished the information as required unless it has been verified in accordance with the requirements of the Chief Inspector.

Telephone warrants

77. (1) An inspector may apply to a magistrate for a warrant by telephone, facsimile or other prescribed means if the inspector considers the urgency of the situation requires it.

(2) The magistrate may complete and sign the warrant in the same terms as for a warrant applied for in person if satisfied that there are reasonable grounds for issuing the warrant urgently.

(3) The magistrate must—

(a) tell the inspector—

(i) the terms of the warrant; and

(ii) the date on which and the time at which, the warrant was signed; and

(iii) the date on which, and the time at which, the warrant ceases to have effect; and

(b) record on the warrant the reasons for granting the warrant.

(4) The inspector must—

(a) complete a form of warrant in the same terms as the warrant signed by the magistrate; and

(b) write on the form—

(i) the name of the magistrate; and

(ii) the date on which, and the time at which, the warrant was signed; and

(c) send the magistrate the completed form of warrant not later than the day after the warrant is executed or ceases to have effect.

(5) On receipt of the form of warrant, the magistrate must attach it to the warrant the magistrate signed.

Livestock Act 1997

(6) A form of warrant completed by an inspector under subsection (4) has the same force as a warrant signed by the magistrate under subsection (2).

General defence

78. It is a defence to a charge of an offence against this Act if the defendant proves that the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

Vicarious liability

79. For the purposes of this Act, an act or omission of an employee or agent will be taken to be the act or omission of the employer or principal unless it is proved that the act or omission did not occur in the course of the employment or agency.

Offences by bodies corporate

80. If a body corporate is guilty of an offence against this Act, each director of the body corporate is, subject to the general defence under this Part, guilty of an offence and liable to the same penalty as may be imposed for the principal offence.

Continuing offence

81. (1) A person convicted of an offence against a provision of this Act in respect of a continuing act or omission—

- (a) is liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continued of not more than one-tenth of the maximum penalty prescribed for that offence; and
- (b) is, if the act or omission continues after the conviction, guilty of a further offence against the provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or omission continued after the conviction of not more than one-tenth of the maximum penalty prescribed for the offence.

(2) If an offence consists of an omission to do something that is required to be done, the omission will be taken to continue for as long as the thing required to be done remains undone after the end of the period for compliance with the requirement.

Prosecution period

82. (1) Proceedings for an offence against this Act must be commenced within two years of the date on which the offence is alleged to have been committed or, with the authorisation of the Minister, at a later time within five years after that date.

(2) In any proceedings, an apparently genuine document purporting to be a certificate of the Minister certifying authorisation of a prosecution for an offence against this Act will be accepted, in the absence of proof to the contrary, as proof of the authorisation.

Recovery of technical costs associated with prosecutions

83. If a person is convicted of an offence against this Act, the court must, on application by the prosecutor, order the convicted person to pay the reasonable costs and expenses incurred in the taking of any samples or the conduct of tests, examinations or analyses in the course of the investigation and prosecution of the offence.

Evidence

84. (1) In legal proceedings, an apparently genuine document purporting to be a certificate of the Minister or Chief Inspector certifying—

- (a) that a person is or was at a specified date an inspector;
- (b) that a person is or was at a specified date an analyst;
- (c) that a person or brand was or was not registered under this Act at a specified date or as to the particulars of registration;
- (d) as to the giving or making and the contents of a notice, order, delegation, exemption or approval under this Act,

constitutes proof of the matters so certified in the absence of proof to the contrary.

(2) In legal proceedings, an apparently genuine document purporting to be a certificate of an analyst and setting out details as to an analysis carried out by or under the direction of the person and the results of the analysis constitutes proof, in the absence of proof to the contrary, of the matters so certified.

(3) An allegation in a complaint—

- (a) that a person is or was at a specified date the owner or person in control of specified livestock or other property; or
- (b) that something done was done without the approval of the Chief Inspector,

constitutes proof of the matters so alleged in the absence of proof to the contrary.

(4) In legal proceedings, proof that a hive was found on premises constitutes proof, in the absence of proof to the contrary, that bees were kept by the occupier of the premises.

Service

85. A notice, order or other document to be given or served on a person under this Act may be given or served—

- (a) by delivering it personally to the person or an agent of the person; or
- (b) by leaving it for the person at the person's place of residence or business with someone apparently over the age of 16 years; or
- (c) by posting it to the person or agent of the person at the person's or agent's last known place of residence or business; or
- (d) by transmitting it by facsimile transmission to a facsimile number provided by the person (in which case the notice, order or document will be taken to have been given or served at the time of transmission).

Incorporation of codes, standards or other documents

86. (1) A regulation, notice, order or code of practice under this Act may incorporate or operate by reference to a specified code, standard or other document as in force at a specified time or as in force from time to time.

Livestock Act 1997

- (2) If a code, standard or other document is incorporated or referred to—
- (a) a copy of—
- (i) the code, standard or other document; and
 - (ii) any document referred to or incorporated in the code, standard or other document,
- must be kept available for inspection by members of the public, without charge and during normal office hours, at a place determined by the Minister; and
- (b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.

Gazette notices

87. A notice in the *Gazette* under this Act—

- (a) may be varied or revoked by subsequent notice in the *Gazette*;
- (b) may make different provision according to the matters or circumstances to which it is expressed to apply;
- (c) may provide that a matter or thing in respect of which the notice may be made is to be determined according to the discretion of the Minister, the Chief Inspector or an inspector.

Regulations

88. (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

- (2) Without limiting the generality of subsection (1), the regulations may—
- (a) require, regulate or restrict the identification of livestock or other property by tags, brands, implanted microchips or other means;
 - (b) require waybills or other documents to accompany livestock whenever they are moved from one place to another and empower inspectors to detain and deal with livestock not accompanied by the required documents;
 - (c) prohibit or regulate the possession and use of vaccines or diagnostic reagents intended for use on livestock or native or feral animals;
 - (d) regulate the use of hormonal growth promotants on livestock and the making of declarations and the keeping of records about their use;
 - (e) fix fees (which may vary according to different factors) to be paid in respect of any matter under this Act and provide for the recovery, refund, waiver or reduction of such fees;
 - (f) exempt a class of persons or livestock or other property from the application of this Act or a specified provision of this Act unconditionally or subject to specified conditions;
 - (g) impose fines not exceeding \$10 000 for offences against the regulations;

- (h) fix expiation fees not exceeding \$315 for alleged offences against the regulations.
- (3) Regulations under this Act—
 - (a) may be of general application or limited application;
 - (b) may make different provision according to the matters or circumstances to which they are expressed to apply;
 - (c) may provide that a matter or thing in respect of which the regulations may be made is to be determined according to the discretion of the Minister, the Chief Inspector or an inspector (and provide for appeals against such determinations);
 - (d) may make provisions of a savings or transitional nature.

Livestock Act 1997**SCHEDULE 1***Requirements for control or eradication of disease or contamination*

For the purposes of controlling or eradicating disease or contamination by notice or order under Part 4 Division 4, requirements may be imposed—

- (a) prohibiting or restricting the movement of livestock, livestock products or other property used in relation to livestock into or out of or within the State or a particular area or place;
- (b) requiring action to be taken in relation to livestock, livestock products or other property used in relation to livestock including—
 - (i) examining or testing the livestock, livestock products or other property or subjecting the livestock, livestock products or other property to a continued program of examination or testing at intervals;
 - (ii) detaining or confining the livestock, livestock products or other property at a specified place for a specified period;
 - (iii) vaccinating the livestock;
 - (iv) subjecting the livestock, livestock products or other property to treatment or a course of treatment;
 - (v) placing the livestock, livestock products or other property under the supervision of a person and requiring the reasonable directions of that person given in the course of that supervision to be obeyed;
 - (vi) requiring the livestock, livestock products or other property to be kept, managed or transported in a specified manner;
 - (vii) requiring the livestock, livestock products or other property to be identified by marking, tagging or other means;
 - (viii) requiring the livestock, livestock products or other property to be destroyed, demolished or disposed of in a specified manner;
- (c) prohibiting or restricting the sale or supply of livestock, livestock products or other property used in relation to livestock or restricting the purposes for which the livestock or other property may be used;
- (d) prohibiting or restricting the carrying out of any artificial breeding procedure;
- (e) requiring land—
 - (i) to be examined or tested (including a continuing program of examination or testing at intervals);
 - (ii) to be subjected to treatment or a course of treatment;
- (f) restricting the purposes for which land may be used including—
 - (i) prohibiting or restricting the pasturing or keeping of livestock on land;
 - (ii) prohibiting or restricting the use of land for growing food for livestock;
- (g) requiring signs to be erected on land;
- (h) requiring a fence or enclosure to be erected or repaired;
- (i) requiring the owner or occupier of land to take action to examine, test, treat or destroy native or feral animals on the land;

An order requiring such action may only be issued with the approval of the Chief Inspector: see section 42.
- (j) requiring the owner of livestock or other property (including land) in respect of which a notice or order is in force to notify the Chief Inspector of any intended sale of the livestock or other property;

- (k) if the disease is an exotic disease—
 - (i) prohibiting or restricting the movement into, out of, or within, an area of persons, vehicles, vessels or aircraft;
 - (ii) requiring the cleansing or disinfecting of persons or the attire of persons;
 - (iii) requiring the muzzling of dogs (whether working or pets);
 - (iv) prohibiting or restricting—
 - (A) the holding of any market, fair, sale, show, parade, race meeting or other gathering or competition involving livestock or livestock products;
 - (B) the delivery of livestock or livestock products to any abattoir, milk factory or other place to which livestock or livestock products are regularly delivered;
 - (v) empowering inspectors to destroy and dispose of livestock that are found within a specified area if they are not under the direct control of any person or the provisions of the notice or order have apparently not been complied with in respect of them.

Livestock Act 1997**SCHEDULE 2***Repeal and transitional provisions***Repeal¹**

1. The following Acts are repealed:

- (a) *Apiaries Act 1931*;
- (b) *Branding of Pigs Act 1964*;
- (c) *Brands Act 1933*;
- (d) *Cattle Compensation Act 1939*;
- (e) *Deer Keepers Act 1987*;
- (f) *Foot and Mouth Disease Eradication Fund Act 1958*;
- (g) *Stock Act 1990*;
- (h) *Swine Compensation Act 1936*.

Transitional provisions²

2. (1) The appointment of a person as an inspector under the repealed *Stock Act 1990* is, on the commencement of this subclause, revoked.

(2) The persons appointed to the offices of Chief Inspector of Stock and deputy Chief Inspector of Stock under the repealed *Stock Act 1990* immediately before the commencement of this subclause will be taken to have been appointed respectively as Chief Inspector of Stock and deputy Chief Inspector of Stock under this Act.

(3) An order under section 19 or 21 of the repealed *Stock Act 1990* in force immediately before the commencement of this subclause will be taken to be an order under Part 4 Division 4.

(4) A person who holds a licence to conduct an artificial breeding centre, or authorising artificial breeding procedures, under Part 5 of the regulations made under the repealed *Stock Act 1990* immediately before the commencement of this subclause will (if the licence is not then suspended) be taken to be registered under Part 3 Division 2 (and the registration is subject to the same conditions as the corresponding licence under the repealed *Stock Act 1990* and expires on the date on which the licence would have expired).

(5) A person who operates a veterinary diagnostic laboratory registered under Part 6 of the regulations made under the repealed *Stock Act 1990* immediately before the commencement of this subclause will be taken to be registered under Part 3 Division 3 (and the registration expires on the date on which registration under the repealed Act would have expired).

(6) A brand registered under the repealed *Brands Act 1933* or the repealed *Branding of Pigs Act 1964* immediately before the commencement of this subclause will be taken to be registered in the corresponding register under Part 7 (and registration of the brand expires on the date on which registration under the repealed Act would have expired or, if the repealed Act did not provide for the expiry of registration, the date fixed by regulation).

(7) A fund kept under the repealed *Apiaries Act 1931*, the *Cattle Compensation Act 1939*, the *Deer Keepers Act 1987* or the *Swine Compensation Act 1936* must be maintained pending its application in accordance with the regulations—

- (a) by payment into a fund established under this Act that is declared by the regulations to be the corresponding fund; or
- (b) in some other way provided in the regulations.

Non-application of automatic commencement

3. Section 7(5) of the *Acts Interpretation Act 1915* does not apply to this Schedule.

¹ Clause 1(a)-(e) and (h) had not been brought into operation at the date of this reprint.

² Clause 2(6) and (7) had not been brought into operation at the date of this reprint.

APPENDIX

LEGISLATIVE HISTORY

Division 2 of Part 2 comprising ss. 12 - 15 and heading repealed by 57,
1998, Sched. para. (a)

Schedule 2

Clause 3:

inserted by 57, 1998, Sched. para. (b)