

SOUTH AUSTRALIA

STOCK ACT, 1990

STOCK ACT, 1990

being

Stock Act, 1990, No. 62 of 1990
[Assented to 6 December 1990]¹

¹ Came into operation 30 May 1991: *Gaz.* 23 May 1991, p. 1638.

An Act to prevent or control disease and residues in stock and stock products and to provide for the regulation of the artificial breeding of stock; to repeal the Stock Diseases Act, 1934; to make consequential amendments to the Cattle Compensation Act, 1939, the Foot and Mouth Disease Eradication Fund Act, 1958, and the Swine Compensation Act, 1936; and for other purposes.

The Parliament of South Australia enacts as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Stock Act, 1990*.

Commencement

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

Repeal

3. The *Stock Diseases Act, 1934*, is repealed.

Interpretation

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

"artificial breeding procedure" means—

- (a) artificial insemination of stock;
 - (b) any operation by which an embryo is collected from a head of stock and implanted in another head of stock;
- or
- (c) collecting, processing, handling, storing or distributing semen, ova or embryos of stock for the purposes of a procedure referred to in paragraph (a) or (b):

"Chief Inspector" means the Chief Inspector of Stock appointed pursuant to this Act:

"contaminated property" means—

- (a) in relation to disease—any land, or anything (other than any stock or stock product), contaminated with disease;
- (b) in relation to residues—any land, or anything (other than any stock or stock product), containing or producing a substance capable of causing stock that consume it or come into contact with it to become residue affected:

"diagnostic laboratory" means a place in which samples or specimens from stock or stock products are tested or analysed for the purposes of determining whether they are infected or contaminated with disease or residue:

"disease" means—

(a) a disease (including any bacterium, virus, protozoa, arthropod or other pathogen or organism that is capable of causing such a disease in stock), or a parasite or pest of a class, referred to in a notice under section 5(1);

or

(b) an exotic disease:

"endangered stock" means—

(a) in relation to stock that are or are suspected of being infected—stock that have, during the prescribed period, been pastured or kept together on the same holding, transported in the same vehicle, vessel or aircraft, or kept together in the same group, as those stock unless they are of a class that is not susceptible to the disease;

(b) in relation to stock that are or are suspected of being residue affected—stock that have, during the prescribed period, been pastured or kept together on the same holding, or kept in the same group, as those stock:

"exotic disease" means—

(a) foot and mouth disease;

(b) rabies;

or

(c) a disease, or a parasite or pest of a class, declared by the Minister under section 5 to be an exotic disease,

and includes any bacterium, virus, protozoa, arthropod or other pathogen or organism that is capable of causing such a disease in stock:

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

"infected"—*see section 5*:

"inspector" means a person appointed as an inspector of stock pursuant to this Act:

"residue" means—

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

4.

or

- (b) a natural secretion which is present in the body tissues or secretions of stock in abnormally high concentration:

"residue affected"—*see section 6*:

"sell" means—

- (a) sell, barter or exchange;
- (b) agree or offer to sell, barter or exchange;

or

- (c) exhibit for sale, barter or exchange,

and "sale" has a corresponding meaning:

"stock" means any animal or bird that is kept or usually kept in a domestic or captive state and any bee of the genus *Apis* or *Megachile*:

"stock buildings and equipment" means any stall, stable, pen, hive or other structure for keeping or confining stock and any harness, halters, brushes, buckets or other articles used in relation to stock:

"stock food" means anything intended for consumption by stock except pasture:

"stock product" means—

- (a) the carcass or portion of a carcass of any stock;
- (b) the semen, ova or embryos of any stock;
- (c) the hide, skin, hair, wool or feathers of any stock;
- (d) the viscera of any stock;
- (e) the flesh, bones, horns or hoofs of any stock;
- (f) the blood or blood product of any stock;
- (g) the milk, eggs, honey, beeswax or other product of any stock;

or

- (h) the excreta of any stock.

5.

(2) For the purposes of this Act, a person will be taken to have brought stock into a place, to have removed stock from a place or to have moved stock from one place to another if, as a result of some act or omission on that person's part, the stock stray to or from that place or from that place to the other, as the case may be.

Note: For definition of divisional penalties see Appendix.

Disease and exotic disease

5. (1) The Minister may, by notice in the *Gazette*, declare that stock, or stock of a specified class, that are suffering from or affected with a specified disease or a parasite or pest of a specified class are infected.

(2) The Minister may, by notice in the *Gazette*, declare a specified disease or a parasite or pest of a specified class to be an exotic disease for the purposes of this Act.

(3) A notice under this section may be varied or revoked by subsequent notice in the *Gazette*.

(4) A reference in this Act to infected stock products is a reference to stock products that have come from infected stock.

Residue

6. (1) The Minister may, by notice in the *Gazette*, declare that stock, or stock of a specified class, that contain in a specified class of their body tissues or secretions more than a specified concentration of a specified residue are residue affected.

(2) A notice under this section may be varied or revoked by subsequent notice in the *Gazette*.

(3) A reference in this Act to residue affected stock products is a reference to stock products that have come from residue affected stock.

PART II

ADMINISTRATION

Appointment of inspectors

7. (1) The Minister may, by instrument in writing, appoint persons to be inspectors of stock for the purposes of this Act.

(2) An appointment under subsection (1) may be conditional.

(3) The Minister must provide an inspector with a certificate of appointment setting out any conditions attaching to the appointment.

(4) An inspector must, at the request of a person in relation to whom the inspector has exercised, or intends to exercise, powers under this Act, produce the inspector's certificate of appointment.

Chief Inspector of Stock and deputy

8. (1) The Minister may, from time to time, by instrument in writing, appoint a person to be the Chief Inspector of Stock for the purposes of this Act.

(2) The Minister may, from time to time, by instrument in writing, appoint a person to be the deputy of the Chief Inspector, and a person so appointed has, while acting in the absence of the Chief Inspector, all the powers, duties and functions of the Chief Inspector under this or any other Act.

Delegation by Chief Inspector

9. (1) The Chief Inspector may delegate to any person (including an inspector) any of the Chief Inspector's functions or powers under this Act.

(2) A delegation under this section—

(a) may be subject to such conditions as the Chief Inspector thinks fit;

(b) is revocable at will;

(c) does not derogate from the power of the Chief Inspector to act in any matter himself or herself.

Approval of Chief Inspector

10. (1) An application for an approval of the Chief Inspector for the purposes of this Act—

(a) must be made in a manner and form approved by the Chief Inspector;

and

(b) must be accompanied by the prescribed fee (if any).

(2) An approval given by the Chief Inspector for the purposes of this Act—

(a) must be in writing or, if given orally, must be confirmed in writing as soon as practicable;

and

(b) may be subject to such conditions as are specified by the Chief Inspector.

General powers of inspectors

11. (1) An inspector may, for the purposes of exercising any power conferred on the inspector by this Act or determining whether this Act is being or has been complied with—

(a) enter and search any land, premises, vehicle, vessel, aircraft or place;

(b) where reasonably necessary, break into or open any part of, or anything in or on, the land, premises, vehicle, vessel, aircraft or place or, in the case of a vehicle, vessel or aircraft, give directions with respect to the stopping or moving of the vehicle, vessel or aircraft;

(c) take photographs, films or video recordings;

(d) 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;

(e) require a person to produce any books, documents or records in his or her possession or control;

(f) require a person to produce any information stored by computer, microfilm or by any other process;

(g) examine, copy and take extracts from any books, documents, records or information produced under this section or require a person to provide a copy of any such book, document, record or information.

(2) An inspector may—

(a) identify, by marking, tagging or otherwise, any land, building or other structure, stock, or thing, in respect of which powers have been exercised under this Act;

(b) seize and retain anything that may constitute evidence of the commission of an offence against this Act;

(c) seize any stock or thing brought into a place, removed from a place, or moved from one place to another, in contravention of this Act;

(d) use reasonable force to prevent the commission of an offence against this Act.

8.

(3) An inspector must not exercise the power conferred by subsection (1)(b) in relation to any residential premises except on the authority of a warrant issued by a justice.

(4) A justice must not issue a warrant under subsection (3) unless satisfied, by information given on oath, that the warrant is reasonably required in the circumstances.

(5) Where an inspector seizes any stock or thing under subsection (2)(c), the inspector may do one or more of the following in relation to the stock or thing:

- (a) detain it;
- (b) cleanse, disinfect or otherwise treat it or subject it to treatment;
- (c) return it to its owner subject to any specified conditions (including conditions requiring payment of costs and expenses reasonably incurred in relation to it or requiring its removal from the State);
- (d) destroy or otherwise dispose of it.

(6) A person may be required to answer a question put by an inspector or to produce books, documents, records or information notwithstanding that the answer to the question or the contents of the books, documents, records or information would tend to incriminate him or her of an offence.

(7) If a person objects to answering a question or to producing books, documents, records or information, of a kind referred to in subsection (6), the answer to the question or the contents of the books, documents, records or information are not admissible against that person in criminal proceedings (except in proceedings for an offence against section 31).

(8) An occupier of premises must, at the request of an inspector who is exercising or proposing to exercise any powers under this Act in connection with the premises or any stock, stock products or other thing on the premises, give to the inspector or a person assisting the inspector such assistance and provide such facilities as the inspector may reasonably require for the effective exercise of those powers.

(9) An inspector, or a person assisting an inspector, who—

(a) addresses offensive language to any other person;

or

(b) without lawful authority or a reasonable belief as to lawful authority, hinders or obstructs or uses or threatens to use force in relation to any other person,

is guilty of an offence.

Penalty: Division 6 fine.

Immunity

12. (1) An inspector incurs no civil or criminal liability for an act or omission in good faith in the exercise or performance, or purported exercise or performance, of a power or function under this Act.

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

PART III

DISEASE AND RESIDUES

DIVISION I—MOVEMENT OF STOCK, ETC.

Prohibition on introduction or removal of disease or infected or residue affected stock or stock products

13. (1) A person must not, without the approval of the Chief Inspector, bring into or remove from the State or cause or permit the movement into or removal from the State of any infected or residue affected stock or stock products.

Penalty:

- (a) if the stock are infected with an exotic disease or the stock products have come from such stock—Division 4 fine or division 4 imprisonment;
- (b) in any other case—Division 6 fine or division 6 imprisonment.

(2) A person must not bring into or remove from the State or cause or permit the movement into or removal from the State of a disease or anything infected with a disease intending that, or being recklessly indifferent as to whether, stock become infected with the disease.

Penalty:

- (a) if the disease is an exotic disease—Division 2 fine or division 2 imprisonment;
- (b) in any other case—Division 4 fine or division 4 imprisonment.

General prohibition on stock, etc., entering or leaving State or moving within State

14. (1) A proclamation may be made under this section if the Governor is satisfied that the proclamation is reasonably required for the purposes of—

- (a) eradicating, or preventing the spread of, disease;
- or
- (b) preventing stock from becoming residue affected or further affected with residue.

(2) Subject to this section, the Governor may, by proclamation, do one or more of the following:

- (a) prohibit or restrict the movement into or removal from the State, or a part of the State, of specified stock, stock products, stock food or equipment or articles used in relation to stock, or any stock, stock products, stock food, or equipment or articles used in relation to stock, of a specified class;
- (b) prohibit or restrict the movement from a part of the State to some other part of the State of specified stock, stock products, stock food or equipment or articles used in relation to stock, or stock, stock products, stock food, or equipment or articles used in relation to stock, of a specified class.

(3) The Governor may, by subsequent proclamation, vary or revoke a proclamation under this section.

(4) The Chief Inspector may—

- (a) cause notice of a proclamation under this section to be published in a newspaper circulating throughout the area concerned or generally throughout the State;
- (b) cause such signs setting out the terms of a proclamation under this section to be erected as the Chief Inspector considers appropriate.

(5) A person who—

- (a) brings into or removes from the State, or a part of the State, or moves within the State, stock, stock products, stock food, equipment or articles;

or

- (b) being the owner or person in charge of stock, stock products, stock food, equipment or articles, causes or permits them to be brought into or removed from the State or a part of the State, or moved within the State,

contrary to a proclamation under this section is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment.

Documentation to accompany stock, etc., entering State

15. (1) Where the owner of stock or stock products brings them into the State or causes or permits them to be brought into the State, the owner must ensure—

- (a) that such documentation as the Minister requires by notice under this section accompanies the stock or stock products en route into the State;
- (b) that any such documentation is retained by or on behalf of the owner for a period of 12 months after the stock or stock products enter the State;

and

- (c) that the Chief Inspector is provided with a copy of any such documentation before, or as soon as practicable after, the stock or stock products enter the State.

Penalty: Division 8 fine.

(2) The Minister may, by notice in the *Gazette*, require specified documentation to accompany stock or stock products of a specified class en route into the State.

(3) The Minister may, by subsequent notice in the *Gazette*, vary or revoke a notice under subsection (2).

(4) A person in charge of stock or stock products en route into the State must, at the request of an inspector, make available for inspection the documentation required to accompany the stock or stock products under this section.

Penalty: Division 8 fine.

DIVISION II—REPORTING AND INVESTIGATION

Reporting

16. (1) Where a person knows or has reason to suspect that stock or stock products owned or managed by the person, in the person's possession, or on land owned or occupied by the person, are infected or residue affected, the person must—

- (a) report the matter to an inspector by the quickest practicable means;
- (b) furnish the inspector with such further information as the inspector may reasonably require;

and

- (c) in the case of stock or stock products that are or are suspected of being infected, take all reasonable measures to prevent the spread of disease.

Penalty: Division 6 fine.

(2) Where a veterinary surgeon knows or has reason to suspect that stock are infected or residue affected or that stock have died as a result of being infected, the veterinary surgeon—

- (a) must report the matter to an inspector by the quickest practicable means;

and

- (b) must furnish the inspector with such further information as the inspector may reasonably require.

Penalty: Division 5 fine.

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

Investigation

17. (1) An inspector may carry out an investigation as reasonably necessary for the purposes of—

- (a) determining whether stock or stock products are infected or residue affected;
- (b) determining whether stock or stock products remain infected or contaminated with disease or residue;
- (c) identifying or tracing any source likely to cause or to have caused stock to become infected or residue affected.

(2) Subject to this section, an inspector may, for the purposes of an investigation under this section—

- (a) examine, take samples from, test or carry out a veterinary procedure on any stock and where reasonably necessary for that purpose—
 - (i) require the owner or person in charge of stock to muster them at, or take them or a sample of a specified kind from them to, a specified place;
 - (ii) kill stock (but not more than two out of every 100, or part of 100, stock kept together on the same holding or in the same group or transported together in the same vehicle, vessel or aircraft);
- (b) examine, take samples from or test any stock products, stock food, stock buildings and equipment, soil, vegetation or any other article or substance and, where reasonably necessary for that purpose, require the owner or person in charge of any goods to take them, or a sample of a specified kind from them, to a specified place;
- (c) examine, take samples from, test or carry out a veterinary procedure on any native or feral animal or bird or any insects and, where reasonably necessary for that purpose, kill any such animal, bird or insect notwithstanding that it may be protected under any other law.

(3) An inspector must not, in the course of an investigation under this section, carry out any veterinary treatment within the meaning of the *Veterinary Surgeons Act, 1985*, unless authorized by the Chief Inspector to carry out veterinary treatment of that kind.

(4) If stock killed pursuant to this section are found not to be infected or residue affected, the owner of the stock is entitled to reasonable compensation from the Chief Inspector (to the extent that compensation is not payable under some other Act).

(5) Compensation payable under subsection (4) is recoverable by action in any court of competent jurisdiction.

(6) 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.

(7) The Minister may recover costs and expenses reasonably incurred by an inspector under subsection (6) by action in a court of competent jurisdiction as a debt owed by the person of whom the requirement was made.

Examination of stock by owner or occupier of land for presence of disease

18. (1) An owner or occupier of land—

- (a) may detain and examine any stock that are on that land whether with or without his or her consent;
- and
- (b) if, after such examination, the owner or occupier reasonably suspects that the stock are infected, may detain the stock until an inspector arrives.

(2) If stock detained under subsection (1)(b) are found to be infected, the owner or occupier of the land may recover costs and expenses reasonably incurred in the detention and keep of the stock by action in a court of competent jurisdiction as a debt owed by the owner of the stock.

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

Penalty: Division 8 fine.

DIVISION III—CONTROL AND PREVENTION

Order relating to infected or residue affected stock or stock products

19. (1) Where an inspector knows or reasonably suspects that stock or stock products are infected or residue affected, the inspector may issue such orders under this section to the owner or person in charge of the stock or stock products and to the owner or person in charge of any endangered stock as may be reasonably required in the circumstances.

(2) Subject to this Division, one or more of the following orders may be issued in relation to stock or stock products (as the case may be):

- (a) an order requiring them to be detained at a specified place for a specified period;
- (b) an order requiring—
 - (i) that they be subjected to specified treatment or a specified course of treatment;
 - (ii) that they be placed under the supervision of a specified person and that any reasonable directions of that person given in the course of that supervision be obeyed;
 - (iii) that they be kept or managed in a specified manner;
 - (iv) that other specified action be taken for the purposes of freeing them from disease or residue or reducing the level of residue contained in them;
- (c) an order requiring that they be subjected to specified examinations or tests at specified intervals or that other specified action be taken for the purposes of determining whether they remain infected or contaminated with disease or residue;
- (d) an order restricting or prohibiting their sale or supply or restricting the purposes for which they may be used;
- (e) an order requiring that they be destroyed or disposed of in a specified manner;
- (f) an order requiring that any stock products derived from the stock or endangered stock be treated, destroyed, disposed of, or otherwise dealt with, in a specified manner, or an order restricting or prohibiting the sale or supply of such stock products or restricting the purposes for which such stock products may be used.

(3) Stock detained under this section must be examined by an inspector, or other person authorized by the Chief Inspector, at reasonable intervals determined by the Chief Inspector having regard to the nature of the disease or residue and any other relevant factors.

Detention, treatment or destruction of stock or stock products where owner unknown, etc.

20. (1) Where—

(a) an inspector knows or reasonably suspects that stock or stock products are infected or residue affected;

but

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

the inspector may do one or more of the following in relation to the stock or stock products (as the case may be):

(c) detain them for such period and at such place as the inspector considers appropriate;

(d) subject them to treatment or a course of treatment for the purposes of freeing them from disease or residue or reducing the level of residue contained in them;

(e) with the approval of the Chief Inspector, destroy, sell or otherwise dispose of them.

(2) The Minister may recover costs and expenses reasonably incurred by an inspector under this section by action in a court of competent jurisdiction as a debt owed by the owner of the stock or stock product.

Other orders and action in relation to disease or residue

21. (1) Where an inspector knows or reasonably suspects that—

(a) stock or stock products are infected or residue affected;

or

(b) any other circumstances exist that give rise to danger of stock becoming infected or residue affected or further affected with residue (whether or not the danger is imminent),

the inspector may issue such orders under this section as may be reasonably required in the circumstances.

(2) Subject to this Division, one or more of the following orders may be issued:

(a) an order prohibiting or restricting the movement of stock or stock products into or out of any land, premises or place;

(b) an order prohibiting or restricting the removal of any contaminated property or anything suspected of being contaminated property from any land, premises, vehicle, vessel, aircraft or place;

- (c) an order requiring the cleansing, disinfecting or other treatment of any contaminated property or any land or thing suspected of being contaminated property;
- (d) an order restricting the purposes for which any contaminated property or any land or thing suspected of being contaminated property may be used;
- (e) an order requiring the destruction, demolition, removal or disposal of any contaminated property or anything suspected of being contaminated property;
- (f) an order prohibiting or restricting the grazing or keeping of stock on land;
- (g) an order prohibiting or restricting the use of land for the growing of food for stock;
- (h) an order prohibiting or restricting the carrying out of any artificial breeding procedure;
- (i) an order regulating the keeping, transport or management of stock, stock products, stock food or stock buildings and equipment;
- (j) an order requiring the identification by marking, tagging or otherwise of any stock, stock products, stock food, stock buildings and equipment, contaminated property or any land or thing suspected of being contaminated property;
- (k) an order requiring the erection of specified signs;
- (l) an order requiring the erection of any fence or enclosure or the repairing of any fence or enclosure;
- (m) in the case of an exotic disease—
 - (i) an order prohibiting or restricting the movement of persons into or out of any land, premises, vehicle, vessel, aircraft or place;
 - (ii) an order requiring the cleansing or disinfecting of any person or the attire of any person;
 - (iii) any other order that may be appropriate in the circumstances;
- (n) any order of a prescribed kind.

(3) The inspector may take any action that might be required by an order under this section if such action is, in his or her opinion, urgently required in the circumstances or if the inspector cannot after reasonable inquiry locate a person to whom the order might properly be issued.

Orders generally

22. (1) An order under this Division—

- (a) must be in writing;
- (b) may be of general or limited application.

(2) An inspector may, by notice in writing to the person to whom an order has been issued under this Division, vary or revoke the order.

(3) An order under this Division that is of a continuing nature has effect for such period as is specified in the order.

(4) Where an order of a continuing nature is issued under this Division on the basis of a suspicion, the inspector must, as soon as practicable, take reasonable steps to determine whether that suspicion is correct.

(5) If a person refuses or fails to comply with an order issued under this Division, an inspector may take any necessary action to give effect to the order.

(6) The Minister may recover costs and expenses reasonably incurred by an inspector under subsection (5) by action in a court of competent jurisdiction as a debt owed by the person to whom the order was issued.

Limitations on orders for destruction

23. (1) An order must not be issued under this Division for the destruction or disposal of stock or stock products except with the consent of the owner of the stock or stock products or the approval of the Chief Inspector (which may be given generally or in individual cases).

(2) An order must not be issued nor action taken under this Division for the destruction, demolition or disposal of contaminated property or anything suspected of being contaminated property except with the consent of the owner of the property concerned or on authority of a warrant issued by a justice.

(3) A justice must not issue a warrant under subsection (2) unless satisfied, by information given on oath, that the warrant is reasonably required in the circumstances of the case.

Offences relating to orders

24. (1) A person to whom an order has been issued under this Division who contravenes or fails to comply with the order is guilty of an offence.

Penalty:

(a) if the order according to its terms relates to an exotic disease—Division 2 fine or division 4 imprisonment;

(b) in any other case—Division 4 fine or division 6 imprisonment.

(2) A person who—

(a) moves stock or stock products detained pursuant to this Division from the place at which the stock or stock products are so detained;

or

- (b) being the owner or person in charge of such stock or stock products, causes or permits the stock or stock products to be so moved,

is guilty of an offence.

Penalty: Division 6 fine.

(3) A person who does any act in contravention of the terms of a sign erected pursuant to this Division is guilty of an offence.

Penalty: Division 6 fine.

DIVISION IV—SPECIAL PROVISIONS RELATING TO EXOTIC DISEASES

Control and prevention of exotic diseases

25. (1) A proclamation may be made under this section if the Governor is satisfied—

- (a) that an exotic disease is present in the State or elsewhere in Australia;

and

- (b) that the proclamation is reasonably required for the purposes of eradicating, or preventing the spread of, the disease.

(2) Subject to this section, the Governor may, by proclamation, do one or more of the following:

- (a) prohibit or restrict the movement into, out of, or within, an area of—

- (i) persons;

- (ii) vehicles, vessels or aircraft;

- (iii) stock, stock products, stock food or equipment or articles used in relation to stock;

- (b) prohibit or restrict—

- (i) the sale or supply of stock or stock products of a specified class;

- (ii) the holding of any market, fair, sale, show, parade, race meeting or other gathering or competition involving stock or stock products;

- (iii) the delivery of stock or stock products to any abattoir, milk factory or other place to which stock or stock products are regularly delivered;

- (c) prohibit or restrict the sale or supply of stock food of a specified class;

- (d) restrict the purposes for which stock, stock products, or stock food, of a specified class may be used;

- (e) require stock, stock products, or stock food, of a specified class to be destroyed, or disposed of, in a specified manner;
- (f) require stock, stock products, or stock food, of a specified class to be subjected to specified treatment or a specified course of treatment or that other action of a specified kind be taken for the purposes of freeing them from disease;
- (g) require stock buildings and equipment, vehicles, vessels, aircraft, or any other place or thing, of a specified class to be cleansed, disinfected or otherwise treated in a specified manner;
- (h) regulate the keeping, transport or management of stock, stock products, stock food, or stock buildings and equipment, of a specified class;
- (i) require stock, stock products, stock food, or stock buildings and equipment, of a specified class to be identified in a specified manner;
- (j) give inspectors power to destroy and dispose of stock that are found within a specified area if they are not under the direct control of any person or the provisions of the proclamation have apparently not been complied with in respect of them;
- (k) make any other provision that is reasonably required.

(3) A proclamation under this section must state the period for which it will remain in force.

(4) The Chief Inspector must, on the same day as or as soon as practicable after the making of a proclamation under this section, cause the terms of the proclamation to be advertised in a newspaper circulating throughout the area concerned or generally throughout the State.

(5) The Governor may, by subsequent proclamation, vary or revoke a proclamation under this section.

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

Penalty: Division 2 fine or division 4 imprisonment.

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

(8) The Minister may recover costs and expenses reasonably incurred by an inspector under subsection (7) by action in a court of competent jurisdiction as a debt owed by the person who refused or failed to comply with the proclamation.

Limitation on proceedings

26. (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 in pursuance or purportedly in pursuance of a proclamation made or purportedly made under this Division.

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

DIVISION V—MISCELLANEOUS

Prohibition on sale of infected or residue affected stock, etc.

27. (1) A person must not, without the approval of the Chief Inspector, sell or supply—

(a) infected or residue affected stock or stock products;

or

(b) stock or stock products subject to an order under this Part.

Penalty: Division 7 fine.

(2) A person must not sell or supply stock food that could, if consumed by stock of a class for which the stock food is intended, cause the stock to become infected or residue affected.

Penalty: Division 7 fine.

(3) The owner of land in respect of which an order is in force under this Part must notify the Chief Inspector of any intended sale of the land at least 28 days before the date of settlement.

Penalty: Division 8 fine.

(4) Where a person is guilty of an offence against subsection (1) or (2), a court may (in addition to any other penalty that may be imposed) order the person to pay to the person to whom the property was sold or supplied such compensation as the court thinks fit.

Prohibition on feeding stock infected or residue affected stock products

28. A person must not, without the approval of the Chief Inspector, feed to stock any infected or residue affected stock products or permit stock to feed on such stock products.

Penalty: Division 7 fine.

Treatment or destruction of native or feral animals or birds, or insects

29. (1) Where in the opinion of the Chief Inspector it is necessary for the purposes of eradicating or preventing the spread of disease that any native or feral animals or birds or any 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, birds or insects.

(2) The Chief Inspector may exercise a power under this section notwithstanding that the animals, birds or insects are protected under any other law but must (except in urgent circumstances) consult with the Minister for Environment and Planning before exercising a power under this section in relation to native animals or birds.

PART IV

MISCELLANEOUS

Offences relating to inspector's powers

30. A person must not—

- (a) hinder or obstruct an inspector, or a person assisting an inspector, in the exercise of powers under this Act;
- (b) refuse or fail to comply with any request or requirement made by an inspector under this Act;
- (c) falsely represent, by words or conduct, that he or she is an inspector;
- (d) remove or interfere with any identification device or sign used or erected for the purposes of this Act.

Penalty: Division 6 fine.

False or misleading statements

31. A person must not, in furnishing information under this Act, make a statement that is false or misleading in a material particular.

Penalty: Division 6 fine.

Service of notices or orders

32. A notice or order required or authorized by this Act to be given or issued to a person may be given or issued—

- (a) by delivering it personally to the person or an agent of the person;
 - (b) by leaving it for the person at his or her place of residence or business with someone apparently over the age of 16 years;
 - (c) by posting it to the person or agent of the person at his or her last known address;
- or
- (d) by facsimile machine to a facsimile machine number provided by that person for that purpose.

Vicarious liability

33. (1) 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.

(2) Where a body corporate commits an offence against this Act, each member of the governing body of the body corporate is guilty of an offence and liable to the same penalty applicable to the principal offence when committed by a natural person unless it is proved that the member could not by the exercise of reasonable diligence have prevented the commission of that offence.

Evidence

34. (1) In any legal proceedings, a document apparently executed by the Minister certifying as to a matter relating to—

- (a) the appointment of an inspector pursuant to this Act;
- (b) an order or approval of the Chief Inspector or any other inspector under this Act;
- (c) a delegation under this Act;
- (d) a licence under this Act;
- (e) the registration of a diagnostic laboratory under this Act;
- (f) the amount of costs and expenses incurred in taking actions as authorized by this Act in consequence of a contravention of, or failure to comply with, this Act,

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

(2) An allegation in a complaint—

- (a) that a specified person is or was the owner or occupier of specified land;
- (b) that a specified person is or was the owner or person in charge of any specified stock, stock products, stock food or other goods;
- (c) that specified stock or persons were within a specified area;
- (d) that specified stock or stock products are or were infected or residue affected;
- (e) that something done was done without the approval of the Chief Inspector,

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

Summary offences

35. An offence against this Act is a summary offence.

Continuing offences

36. (1) Where an offence against a provision of this Act is committed by a person by reason of a continuing act or omission—

- (a) the person is liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continues of not more than an amount equal to one-fifth of the maximum penalty prescribed for that offence;

and

- (b) if the act or omission continues after the person is convicted of the offence, the person is guilty of a further offence against that 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 continues after that conviction, of not more than an amount equal to one-fifth of the maximum penalty prescribed for that offence.

(2) For the purposes of this section, an obligation to do something is to be regarded as continuing until the act is done notwithstanding that any period within which, or time before which, the act is required to be done has expired or passed.

General defence

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

Incorporation of Standards

38. (1) A notice, proclamation or regulation under this Act may incorporate or operate by reference to any code, standard or other document prepared or approved by a body or authority referred to in the notice, proclamation or regulation and as varied from time to time by that body or authority or the notice, proclamation or regulation.

(2) The Chief Inspector must cause a copy of any document that has been incorporated or referred to in a notice, proclamation or regulation under this Act to be made available for inspection by members of the public without charge.

(3) In any legal proceedings, a document—

- (a) that appears to be a copy of a code, standard or other document incorporated or referred to in a notice, proclamation or regulation in accordance with this section;

and

- (b) that is apparently endorsed with a certificate of its authenticity by the Minister,

is, in the absence of proof to the contrary, to be accepted as such a copy.

Regulations

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

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

- (a) prescribe or regulate examinations, tests, treatments or procedures to which stock or stock products must be subjected and require persons to furnish the Chief Inspector with returns containing information relevant to those examinations, tests, treatments or procedures;
- (b) prohibit or restrict treatments or procedures to which stock may be subjected;
- (c) provide for or regulate the identification of stock by marking, tagging or other means;

- (d) prohibit or regulate the possession and use of vaccines or diagnostic reagents intended for use on stock;
- (e) prohibit or restrict the feeding of stock with substances or matter of a specified class;
- (f) provide for or regulate the manner of dealing with stock products derived from infected or residue affected stock;
- (g) provide for the inspection of stock introduced into, or about to be introduced into or removed from, the State or a specified part of the State;
- (h) provide for or regulate compensation payable in respect of any matter arising under this Act;
- (i) require persons to furnish the Chief Inspector with periodic returns containing information relevant to stock;
- (j) in relation to the artificial breeding of stock—
 - (i) prohibit the carrying out of artificial breeding procedures or the operation of a business or institution established or conducted for the performance on behalf of others of artificial breeding procedures except as authorized by a licence granted by the Chief Inspector;
 - (ii) provide for the granting, and the suspension or cancellation, of such licences by the Chief Inspector;
 - (iii) provide for the imposition, variation and revocation of conditions of such licences (which may be prescribed or at the Chief Inspector's discretion);
 - (iv) contain transitional provisions relating to the conduct of semen collection centres approved by the Chief Inspector immediately before the commencement of this Act;
 - (v) prescribe Codes of Practice to be observed in the carrying out of artificial breeding procedures, which may—
 - (A) prohibit or restrict the use of stock, semen, ova, or embryos, of a specified class for artificial breeding purposes;
 - (B) prescribe or regulate standards to be observed in the carrying out of artificial breeding procedures;
 - (C) prescribe or regulate the standard of premises or equipment or any other article or substance to be used in artificial breeding procedures;
 - (D) regulate the keeping and management of stock that have been or are about to be subjected to an artificial breeding procedure;
 - (E) provide for or regulate the examination and testing of stock that have been or are about to be subjected to an artificial breeding procedure;

- (F) regulate the transport of stock to any place at which the stock are to be subjected to an artificial breeding procedure;
 - (G) prescribe or regulate the information that must be obtained about stock that are to be subjected to an artificial breeding procedure (including the genetic history of the stock);
 - (H) provide for or regulate the examination and testing of ascendants of stock that are to be subjected to an artificial breeding procedure;
 - (I) prescribe or regulate the records to be kept in relation to any artificial breeding procedure;
 - (J) require persons to furnish the Chief Inspector with periodic returns containing information relevant to artificial breeding procedures;
 - (K) otherwise regulate any artificial breeding procedure;
- (k) in relation to diagnostic laboratories—
- (i) require, and provide for, registration of laboratories by the Chief Inspector;
 - (ii) prescribe or regulate the standard of premises, facilities and equipment to be used;
 - (iii) prescribe or regulate standards to be observed in the carrying out of processes or procedures;
 - (iv) provide for the giving of directions by an inspector for the purposes of ensuring that the premises, facilities and equipment used and the processes and procedures carried out comply with the prescribed standards and are otherwise adequate;
 - (v) prescribe or regulate the records to be kept;
 - (vi) require the operator to furnish the Chief Inspector with periodic returns;
- (l) provide for appeals against decisions or orders of the Chief Inspector or any other inspector;
- (m) provide for and regulate additional powers of inspectors;
- (n) prescribe fees (which may be differential) to be paid in respect of any matter under this Act and provide for the waiving of any such fees;
- (o) provide that specified persons, or persons of a specified class are, subject to the conditions (if any) stipulated in the regulations, exempt from any specified provision of this Act.

(3) The regulations—

(a) may be of general or limited application;

(b) may—

(i) leave any matter or thing to be determined, varied, dispensed with or regulated according to the discretion of the Minister or the Chief Inspector or any other inspector;

(ii) confer other forms of discretionary powers;

(c) may impose a fine not exceeding a division 7 fine for contravention of, or non-compliance with, a regulation.

SCHEDULE 1

Transitional Provisions

1. Any person appointed as an inspector under the repealed Act immediately before the commencement of this Act will be taken to have been appointed as an inspector under this Act.

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

3. In this schedule—

"the repealed Act" means the *Stock Diseases Act, 1934*.

SCHEDULE 2

Consequential Amendments

1. The *Cattle Compensation Act, 1939*, is amended—

- (a) by striking out from the definition of "inspector" in section 4(1) "*Stock Diseases Act, 1934-1962*" and substituting "*Stock Act, 1990*";
- (b) by striking out from paragraph (a) of section 5(3) "*Stock Diseases Act, 1934-1962*, any cattle are quarantined" and substituting "*Stock Act, 1990*, any cattle are detained";

and

(c) by striking out paragraph (b) of section 8(4) and substituting the following paragraph:

- (b) where the owner of cattle visibly affected with disease has failed to report the matter to an inspector;.

2. The *Foot and Mouth Disease Eradication Fund Act, 1958*, is amended—

- (a) by striking out from the definition of "inspector" in section 3 "*Stock Diseases Act, 1934-1956*" and substituting "*Stock Act, 1990*";
- (b) by striking out from section 9(a) "pursuant to section 8a of the *Stock Diseases Act, 1934-1956*" and substituting "pursuant to the *Stock Act, 1990*";
- (c) by inserting after the present contents of section 9 as amended by this clause (now to be designated as subsection (1)) the following subsection:

- (2) Compensation is not payable in respect of an animal destroyed pursuant to powers given by a proclamation under section 25(2)(j) of the *Stock Act, 1990*;

and

(d) by striking out from subparagraph (ii) of section 13(b) "*Stock Diseases Act, 1934*" and substituting "*Stock Act, 1990*".

3. The *Swine Compensation Act, 1936*, is amended—

(a) by striking out from section 4 the definition of "inspector" and substituting the following definition:

- "inspector" means an inspector of stock under the *Stock Act, 1990*;

and

(b) by striking out paragraph (b) of section 8(4) and substituting the following paragraph:

- (b) where the owner of a pig visibly affected with disease has failed to report the matter to an inspector;.

APPENDIX

Divisional Penalties

At the date of assent to this Act divisional penalties are, as provided by section 28a of the *Acts Interpretation Act, 1915*, as follows:

Division	Maximum imprisonment	Maximum fine
1	15 years	\$60 000
2	10 years	\$40 000
3	7 years	\$30 000
4	4 years	\$15 000
5	2 years	\$8 000
6	1 year	\$4 000
7	6 months	\$2 000
8	3 months	\$1 000
9	-	\$500
10	-	\$200
11	-	\$100
12	-	\$50