

House of Assembly—No 29A

As reported with amendments, report agreed to and passed remaining stages,
29 May 2012

South Australia

Livestock (Miscellaneous) Amendment Bill 2012

A BILL FOR

An Act to amend the *Livestock Act 1997*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Livestock (Miscellaneous) Amendment Act 2012*.

2—Commencement

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

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Livestock Act 1997*

10 4—Amendment of section 3—Interpretation—general

(1) Section 3(1)—after the definition of *brand* insert:

category 1, 2 or 3 offence—see section 6A;

(2) Section 3(1), definition of *notifiable condition, notifiable contaminant or notifiable disease*—delete "or *notifiable disease*" and substitute:

15 *, notifiable disease or notifiable (report only) disease*

(3) Section 3(1), definition of *veterinary diagnostic laboratory*—after "contaminant" insert:

20 *, but does not include a place of business of a veterinary surgeon if the only samples or specimens that are tested or analysed come from livestock being treated (as well as diagnosed) by the veterinary surgeon in the ordinary course of his or her practice*

5—Amendment of section 4—Interpretation—*notifiable condition and exotic disease*

Section 4(2)—delete subsection (2) and substitute:

25 (2) The Minister may, by the same or a subsequent notice in the Gazette, designate a specified notifiable disease as—

(a) a *notifiable (report only) disease*; or

(b) an *exotic disease*.

6—Amendment of section 5—Interpretation—livestock etc affected or suspected of being affected with a disease or contaminant

Section 5—after subsection (5) insert:

- 5 (5a) There is also reason to suspect that livestock of a class susceptible to a disease are affected with the disease if the conditions specified by the Minister by notice in the Gazette have been met in relation to the livestock.

7—Insertion of section 6A

After section 6 insert:

10 **6A—Categories of offences determining maximum penalties and expiation fees**

- 15 (1) If the maximum penalty or the expiation fee for an offence or alleged offence against a provision of this Act is expressed to vary according to whether the offence is a category 1, 2 or 3 offence, the Governor may, by regulation, prescribe the categories of offences for the purposes of the provision.
- (2) If a regulation prescribing the categories of offences against a provision of this Act is not in force, any offence against the provision will be taken to be category 1 offence.

20 **8—Amendment of section 9—Functions of livestock advisory groups**

- (1) Section 9—after "to advise the Minister" insert:

, on its own initiative or at the request of the Minister

- (2) Section 9(a)—delete "either on its own initiative or at the request of the Minister,"

- (3) Section 9(a)(i)—delete subparagraph (i)

- 25 (4) Section 9(b)—delete "at the request of the Minister,"

9—Amendment of section 10—Terms and conditions of membership and procedures

Section 10(2)—delete "A" and substitute:

Subject to any directions of the Minister, a

30 **10—Amendment of section 17—Requirement for registration to keep certain livestock**

Section 17(1), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

In the case of a category 1 offence—\$10 000;

35 In the case of a category 2 offence—\$5 000;

In the case of a category 3 offence—\$1 250.

Expiation fee:

In the case of an alleged category 1 offence—\$500;

In the case of an alleged category 2 offence—\$315;

In the case of an alleged category 3 offence—\$160.

11—Amendment of section 19—Requirement for registration to perform artificial breeding procedure

5 (1) Section 19(1)—after the penalty provision insert:

Expiation fee: \$500.

(2) Section 19(2)—delete subsection (2) and substitute:

(2) Subsection (1) does not apply to—

(a) a veterinary surgeon; or

(b) a person who carries out an artificial breeding procedure on or in connection with livestock owned by the person; or

(c) an artificial breeding procedure carried out on or in connection with livestock by an employee of the owner of the livestock in the course of that employment.

15 **12—Amendment of section 23—Term of registration and renewal**

Section 23—after subsection (2) insert:

20 (3) The Chief Inspector may, if the Chief Inspector thinks fit and on payment of a prescribed late application fee, renew a registration despite the fact that application for renewal of the registration was made after the end of the previous term of the registration.

(4) A registration has effect, on grant or renewal, from the date specified in the registration for that purpose, which may be earlier than the date of application for the grant or renewal of the registration.

(5) An application for renewal of registration 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, or calculated in accordance with, the regulations.

30 **13—Insertion of Part 3A**

After Part 3 insert:

Part 3A—Identification codes

26A—Requirement for identification codes

35 (1) The regulations may provide for a scheme for the allocation by the Chief Inspector of codes identifying—

(a) places where livestock or livestock of a specified class may be kept or handled; and

(b) stock agents.

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

- (a) the determination at the discretion of the Chief Inspector of the boundaries of a place allocated an identification code and the variation of those boundaries; and
- (b) the period for which an identification code remains active and the renewal of an identification code; and
- (c) the persons who may apply for the allocation or renewal of an identification code or who may make other applications relating to an identification code; and
- (d) the cancellation of an identification code; and
- (e) the association of other codes identifying livestock with an identification code; and
- (f) the keeping of a register of identification codes and other information and the circumstances in which information on the register may or may not be made available.

(3) If a person does not have a current identification code as required by the regulations, the person is guilty of an offence.

Maximum penalty:

In the case of a category 1 offence—\$10 000;

In the case of a category 2 offence—\$5 000;

In the case of a category 3 offence—\$1 250.

Expiation fee:

In the case of an alleged category 1 offence—\$500;

In the case of an alleged category 2 offence—\$315;

In the case of an alleged category 3 offence—\$160.

14—Amendment of section 30—Movement of livestock or livestock products affected with notifiable condition

Section 30(3)—after the penalty provision insert:

Expiation fee: In a case not involving an exotic disease—\$500.

15—Amendment of section 31—Supply of livestock or livestock products affected with notifiable condition

Section 31—after the penalty provision insert:

Expiation fee: In a case not involving an exotic disease—\$500.

16—Insertion of section 32A

After section 32 insert:

32A—Exemptions for notifiable (report only) diseases

Section 27(1)(c) and sections 28 to 32 (inclusive) do not apply in relation to a notifiable (report only) disease.

17—Amendment of heading to Part 4 Division 2

Heading to Part 4 Division 2—after "entry" insert:

or movement

18—Amendment of section 33—Prohibition on entry or movement of livestock or other property absolutely or without required health certificate etc

(1) Section 33(1)—after "entry into" insert:

, or movement within or out of,

(2) Section 33(1)(b)—delete "into the State or specified part of the State"

(3) Section 33(3)(c)—after "brought into" insert:

, or moved within or out of,

(4) Section 33(4)—after "enters" insert:

, or moves within or out of,

(5) Section 33(5)—after "brought into" wherever occurring insert in each case:

, or moved within or out of,

(6) Section 33(5)—after the penalty provision insert:

Expiation fee: Except if the notice is expressed to be issued for the purposes of controlling or eradicating exotic disease—\$500.

(7) Section 33—after subsection (5) insert:

(6) In this section, a reference to a specified part of the State includes a reference to a specified place or a place of a specified class.

19—Amendment of section 37—Gazette notices

(1) Section 37(4)—after the penalty provision insert:

Expiation fee: Except if the notice is expressed to be issued for the purposes of controlling or eradicating a disease that is an exotic disease—\$500.

(2) Section 37—after subsection (5) insert:

(6) For the purposes of the administration or enforcement of this section, a police officer has all the powers and functions of an inspector.

20—Amendment of section 38—Individual orders

(1) Section 38(5), penalty provision—delete "In any other case—\$10 000" and substitute:

In the case of a category 1 offence—\$10 000;

In the case of a category 2 offence—\$5 000;

In the case of a category 3 offence—\$1 250.

Expiation fee:

In the case of an alleged category 1 offence—\$500;

In the case of an alleged category 2 offence—\$315;

In the case of an alleged category 3 offence—\$160.

(2) Section 38(6)—after the penalty provision insert:

Expiation fee: \$315.

21—Amendment of section 39—Action on default

Section 39(2)—delete "by an inspector"

22—Amendment of section 41—Action where no person in charge and owner cannot be located

Section 41(2)—delete "by an inspector"

23—Amendment of section 43—Limitation on destruction or disposal of livestock or other property

Section 43(1)(d)—delete "(such as halters or rugs)"

24—Amendment of section 47—Establishment of Fund

Section 47(3)(b)—delete paragraph (b) and substitute:

- (b) money received under an intergovernmental, or intergovernmental and livestock industry, agreement for sharing the costs of control or eradication of exotic disease;

25—Amendment of section 48—Application of Fund

(1) Section 48(a)—after "excluding" insert:

, subject to the terms of an intergovernmental, or intergovernmental and livestock industry, agreement for sharing the costs of control or eradication of exotic disease,

(2) Section 48(d)—delete paragraph (d) and substitute:

- (d) contributions under an intergovernmental, or intergovernmental and livestock industry, agreement for sharing the costs of control or eradication of exotic disease.

26—Amendment of section 49—Claims for compensation from Fund

(1) Section 49(1)—after paragraph (b) insert:

or

- (c) the owner of livestock certified by an inspector as having been destroyed during a declared period on animal welfare grounds as a result of a prohibition against movement of the livestock in force for the purposes of controlling or eradicating a declared exotic disease.

- (2) Section 49(2)—delete "The" and substitute:

Subject to this section, the

- (3) Section 49—after subsection (4) insert:

(4a) The amount of compensation is to be reduced by the amount of the net proceeds of any sale of livestock carcasses or other property.

27—Amendment of section 68—General powers of inspectors

Section 68(8)—delete "by an inspector"

28—Amendment of section 72—Compliance notices

Section 72(8)—delete "by an inspector"

29—Insertion of Part 8 Division 4

After Part 8 Division 3 insert:

Division 4—Public warning statements

72A—Public warning statements for purposes of controlling or eradicating disease or contamination

- (1) If, in the opinion of the Chief Inspector, it is in the public interest to do so, the Chief Inspector may make a public statement or erect signs at a livestock saleyard or other public place identifying and giving warnings or information about any of the following:
- (a) livestock, livestock products or other property that, in the opinion of the Chief Inspector, is affected with, or in danger of becoming affected with, a disease or contaminant;
 - (b) the suspected presence of a disease or contaminant;
 - (c) practices, that, in the opinion of the Chief Inspector, pose a risk of the spread of a disease affecting livestock or of the introduction of such a disease or of livestock or other property becoming affected or further affected with a contaminant.
- (2) A statement under this section may identify particular livestock, products, property, practices and persons.
- (3) The Crown incurs no liability for a statement made by the Chief Inspector in good faith in the exercise or purported exercise of powers under this section.
- (4) A person incurs no liability for publishing in good faith a statement made by the Chief Inspector under this section or a fair report or summary of such a statement.

30A—Amendment of section 82—Extension of period for prosecution and issue of expiation notice

(1) Section 82(1)—after "Act" insert:

(other than an expiable offence)

(2) Section 82—after subsection (2) insert:

(3) Proceedings for a prescribed expiable offence against this Act must be commenced within 2 years of the date on which the offence is alleged to have been committed and, despite section 6 of the *Expiation of Offences Act 1996*, an expiation notice for such an offence may be given after the expiry of the period of 6 months from the date on which the offence was alleged to have been committed.

(4) An expiation notice for a prescribed expiable offence against this Act cannot be given after the expiry of the period of 2 years from the date on which the offence is alleged to have been committed.

31—Amendment of section 85—Service

Section 85(d)—delete "facsimile transmission to a facsimile number provided by the person" and substitute:

fax transmission or email to the fax number or email address last provided to the Minister or Chief Inspector by the person for the purpose

32—Amendment of section 88—Regulations

(1) Section 88(2)(c)—delete "or diagnostic reagents intended for use on livestock or native or feral animals" and substitute:

, diagnostic reagents or diagnostic assays intended for use on or in relation to livestock or native or feral animals

(2) Section 88(2)(h)—delete "\$315" and substitute:

\$500

Schedule 1—Transitional provisions

Part 5A of the *Livestock Regulations 1998* will be taken to have been made pursuant to Part 3A of the *Livestock Act 1997* as inserted by this Act.