

House of Assembly—No 43A

As reported with an amendment, report agreed to and passed remaining stages,
1 December 2022

South Australia

**Livestock (Emergency Animal Disease)
Amendment Bill 2022**

A BILL FOR

An Act to amend the *Livestock Act 1997*.

Contents

Part 1—Preliminary

1 Short title

Part 2—Amendment of *Livestock Act 1997*

- 2 Insertion of section 7A
7A Interaction with other Acts
- 3 Amendment of section 33—Prohibition on entry or movement of livestock or other property absolutely or without required health certificate etc
- 4 Insertion of section 36A
36A Declaration of increased risk of exotic disease
- 5 Amendment of section 37—Gazette notices
- 6 Amendment of section 39—Action on default
- 7 Amendment of section 42—Exercising powers in relation to native or feral animals
- 8 Amendment of section 43—Limitation on destruction or disposal of livestock or other property
- 9 Insertion of Part 4 Division 6
Division 6—Liability
46 Protection from liability
- 10 Amendment of section 68—General powers of inspectors
- 11 Amendment of section 70—Offence to hinder etc inspectors
- 12 Amendment of section 80—Offences by bodies corporate
- 13 Amendment of section 84—Evidence
- 14 Amendment of section 87—Gazette notices
- 15 Amendment of Schedule 1—Requirements for control or eradication of disease or contamination
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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Livestock (Emergency Animal Disease) Amendment Act 2022*.

Part 2—Amendment of *Livestock Act 1997*

2—Insertion of section 7A

After section 7 insert:

7A—Interaction with other Acts

- 10 (1) Subject to this section, this Act is in addition to and does not limit, or derogate from, the provisions of any other Act.

- (2) Where the provisions of this Act are inconsistent with another Act or law (other than the *Emergency Management Act 2004*), this Act prevails to the extent of the inconsistency.

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

- (1) Section 33—after subsection (2) insert:

- (2a) If the Minister certifies that circumstances of urgency exist, the following provisions apply:

- (a) a notice under this section may, instead of being made by notice in the Gazette, be made by notice published on a website determined by the Minister (and such notice must then be published in the Gazette within 7 days);
- (b) the notice will come into force at the time specified in the notice which must be at, or after, the time at which it is published on a website under paragraph (a) (but may be before the time at which it is published in the Gazette in accordance with that paragraph).

- (2) Section 33—after subsection (6) insert:

- (7) The Minister may—

- (a) by notice in writing given to a person, exempt the person from any requirements in a notice under this section (whether absolutely or subject to conditions); or
- (b) by notice published on a website determined by the Minister, exempt any class of persons from any requirements in a notice under this section (whether absolutely or subject to conditions).

4—Insertion of section 36A

After section 36 insert:

36A—Declaration of increased risk of exotic disease

- (1) The Minister may, by notice in writing, declare that there is an increased risk of an exotic disease being brought into the State or a specified part of the State.
- (2) The Minister must not make a declaration under this section unless satisfied that the disease poses a substantial risk of harm to a livestock industry, to the health and safety of any persons or to the economy (or any sector of the economy).
- (3) A declaration under this section—
- (a) must be published on a website determined by the Minister and in any other manner determined by the Minister; and

(b) remains in force for the period specified in the declaration (which must not exceed 14 days) and for such further periods (which may be of any length) as may be approved by the Governor.

5 (4) If a declaration is in force under this section in relation to a disease, an inspector may, for the purposes of monitoring whether the disease has entered the State, or the specified part of the State, or for the purposes of any market access arrangements relating to livestock in
10 the State, examine or test any livestock, livestock products or other property or subject any livestock, livestock products or other property to a continued program of examination or testing at intervals.

(5) In this section—

15 *market access arrangements* relating to livestock means arrangements for establishing the condition of any livestock, livestock products or other property as a requirement of access to a market for, or any commercial arrangement relating to, the livestock, product or property.

5—Amendment of section 37—Gazette notices

20 (1) Section 37, heading—delete "Gazette" and substitute:

Ministerial

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

(2a) A notice under this section—

(a) may apply generally throughout the State or in relation to—

25 (i) a specified class of person; or

(ii) a specified class of livestock, livestock products or other property used in relation to livestock; or

(iii) specified circumstances; and

(b) may specify that a requirement is to apply if specified conditions are, or are not, met; and

30 (c) may specify that a requirement must be complied with within a specified period (which must be reasonable).

(2b) If the Minister certifies that circumstances of urgency exist, the following provisions apply:

35 (a) a notice under this section may, instead of being made by notice in the Gazette, be made by notice published on a website determined by the Minister (and such notice must then be published in the Gazette within 7 days);

(b) the notice will come into force at the time specified in the notice which must be at, or after, the time at which it is published on a website under paragraph (a) (but may be before the time at which it is published in the Gazette in accordance with that paragraph).

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

(5a) The Minister may—

(a) by notice in writing given to a person, exempt the person from any requirements in a notice under this section (whether absolutely or subject to conditions); or

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(b) by notice published on a website determined by the Minister, exempt any class of persons from any requirements in a notice under this section (whether absolutely or subject to conditions).

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(4) Section 37(6)—delete "police officer" and substitute:

member of SA Police (within the meaning of the *Police Act 1998*)

6—Amendment of section 39—Action on default

Section 39(1)—delete subsection (1) and substitute:

(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—

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(a) if the notice or order specifies a period within which the action is required to be taken—within the period so specified; or

(b) in any other case—within a reasonable period as determined by the Chief Inspector,

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an inspector may take the action required to be taken by that person, with or without assistance, or cause that action to be taken.

7—Amendment of section 42—Exercising powers in relation to native or feral animals

(1) Section 42(1)—after "(including" insert:

mammals, amphibians, molluscs, reptiles,

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(2) Section 42(2)—after "(including" insert:

mammals, amphibians, molluscs, reptiles,

(3) Section 42(4)—delete subsection (4) and substitute:

(4) The Minister must enter into an arrangement with the Minister responsible for the administration of the *National Parks and Wildlife Act 1972* specifying circumstances in which that Minister is to be consulted before a notice or order is issued, or action taken or caused to be taken, under this Division in relation to native animals.

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(4a) However, if the Chief Inspector is satisfied that urgent circumstances exist, no consultation is required under subsection (4).

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

Section 43(2)—delete subsection (2) and substitute:

- 5 (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 unless—
- (a) the owner of the property consents to the order or action; or
- (b) the property is of a kind prescribed by the regulations; or
- 10 (c) the order or action is authorised by a warrant issued by a magistrate.

9—Insertion of Part 4 Division 6

After section 45 insert:

Division 6—Liability

46—Protection from liability

- 15 (1) Except as provided in Part 5 (and despite any other Act or law), no liability attaches to the Crown in respect of—
- (a) any acts or omissions in connection with—
- (i) the exercise or discharge, or purported exercise or discharge, of a function under this Part; or
- 20 (ii) the carrying out, or purported carrying out, of any direction or requirement given or imposed, or purportedly given or imposed, in accordance with this Part; or
- (b) any failure to exercise or discharge a function under this
- 25 Part,
- in relation to the outbreak of a notifiable disease, notifiable contaminant or exotic disease (whether the relevant acts or omissions or failure occurred before or after the commencement of this section).
- 30 (2) Despite any other provision of this Act, or any other Act or law, no civil or criminal liability attaches to a person engaged in the administration of this Act in respect of—
- (a) any acts or omissions in good faith in connection with—
- (i) the exercise or discharge, or purported exercise or discharge, of a function under this Part; or
- 35 (ii) the carrying out, or purported carrying out, of any direction or requirement given or imposed, or purportedly given or imposed, in accordance with this Part; or

- (b) any failure, in good faith, to exercise or discharge a function under this Part,

in relation to a notifiable disease, notifiable contaminant or exotic disease (whether the relevant acts or omissions or failure occurred before or after the commencement of this section).

10—Amendment of section 68—General powers of inspectors

Section 68(2)—after paragraph (d) insert:

- (da) construct, reinforce or repair any building, fencing, gates or other structures or barriers or carry out any other security or containment measures in relation to any place or thing;

11—Amendment of section 70—Offence to hinder etc inspectors

Section 70, penalty provision—delete "\$5 000" and substitute:

\$15 000

12—Amendment of section 80—Offences by bodies corporate

- (1) Section 80(3)—delete ", 37(5), 38(6), 38(7)"

- (2) Section 80(5), definition of *prescribed offence*—delete "or 33(5)" and substitute:
, 33(5), 37 or 38

13—Amendment of section 84—Evidence

Section 84(1)(d)—after "notice," insert:

certification,

14—Amendment of section 87—Gazette notices

- (1) Section 87, heading—after "notices" insert:

etc

- (2) Section 87—after its present contents (now to be designated as subsection (1)) insert:

- (2) A reference in this section to a notice in the Gazette includes a notice referred to in section 33(2a) and section 37(2b).

15—Amendment of Schedule 1—Requirements for control or eradication of disease or contamination

- (1) Schedule 1, paragraph (e)—after subparagraph (ii) insert:

- (iii) to be used for the destruction, demolition, disposal or decontamination of livestock, livestock products or other property;

- (2) Schedule 1, paragraph (h)—delete paragraph (h) and substitute:

- (h) causing the constructing, reinforcing or repairing of any building, fence, gate or other structure or barrier, or the carrying out of any other specified security or containment measures;

- (3) Schedule 1, paragraph (k)(ii)—delete "persons or the attire of persons" and substitute:
person, place or property

(4) Schedule 1, paragraph (k)—after subparagraph (v) insert:

- (vi) directing the owner of, or the person for the time being in charge of, any real or personal property to place it in the possession of, or under the supervision of, a specified person and requiring compliance with any reasonable directions of that person in connection with that possession or supervision;
- (vii) requiring the destruction, disposal, eradication or decontamination of feral animals (including mammals, amphibians, molluscs, reptiles, birds, fish or insects), native animals or any other thing (including by specifying the manner of destruction, disposal, eradication or decontamination);
- (viii) requiring a person who is in a position to do so to stop any work or operation;
- (ix) requiring a person who is in a position to do so to close any place.