

(Reprint No. 1)

SOUTH AUSTRALIA

STOCK FOODS ACT, 1941

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 15 January 1992.

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

Section

1. Short title
2. Commencement
3. Interpretation
4. Non-application of Act
5. Label or invoice on sale of stock food
6. Warranty on sale
7. Power to prescribe standards
8. Penalties for breach of duty by seller
- 8a. Offences in relation to seed grain
9. Powers of Inspectors
10. Publication of results of analysis
11. Tampering with sample
12. Certificate of analyst
13. Defence
14. Marking of package in lieu of label
15. Who may prosecute
16. Appointment of inspectors
17. Summary procedure for offences
18. Costs of analysis
19. Saving of civil remedy
20. Regulations

STOCK FOODS ACT, 1941

being

Stock Foods Act, 1941, No. 32 of 1941 [Assented to 13 November 1941]¹

as amended by

Stock Foods Act Amendment Act, 1944, No. 10 of 1944 [Assented to 19 October 1944]
Stock Foods Act Amendment Act, 1948, No. 18 of 1948 [Assented to 4 November 1948]
Stock Licks Act Repeal Act, 1956, No. 37 of 1956 [Assented to 15 November 1956]
Stock Foods Act Amendment Act, 1972, No. 75 of 1972 [Assented to 21 September 1972]²
Statutes Amendment (Analysts) Act, 1986, No. 43 of 1986 [Assented to 4 September 1986]³

Note: Asterisks indicate repeal or deletion of text. For further explanation see Appendix.

An Act to regulate the sale of stock foods.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title

1. This Act may be cited as the *Stock Foods Act, 1941*.

Commencement

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

Interpretation

3. In this Act, unless the context or subject matter otherwise requires—

“analyst” means—

(a) a person appointed by the Minister as an analyst for the purposes of this Act;

or

(b) a person holding a position of a class approved by the Minister for the purposes of this Act:

“by-product” includes husks, bran, pollard, brewer’s grains and materials produced from any kind of grain in any process of treatment or manufacture not being the primary object of such process and also includes any other commodity, substance, material or matter which may be declared by the regulations to be a by-product for the purposes of this Act:

¹Came into operation 1 April 1942: *Gaz.* 29 January 1942, p. 143.

²Came into operation 26 November 1981: *Gaz.* 26 November 1981, p. 2136.

³Came into operation 16 October 1986: *Gaz.* 16 October 1986, p. 1373.

“inspector” means the chief inspector and any person appointed as an inspector for the purposes of this Act:

“manufactured stock food” includes—

- (a) all kinds of meals and foods for stock prepared whether in whole or in part from one or more kinds of grain or nuts or oils or juices or meats or other substances of a like nature;

* * * * *

“package” includes anything in or by which any stock food is cased, covered, enclosed, contained or packed:

“seed grain” means any grain that has been treated with a prescribed substance or treated in a prescribed manner for the purposes of enhancing its use as seed:

“sell” includes barter or exchange and also includes agreeing to sell or sending, forwarding or delivering for or on sale or causing, suffering or attempting any of such acts or things; and derivatives from “sell” have a corresponding meaning:

“stock” means any animal or bird of the following kinds or species, namely:—horse, cow, sheep, goat, pig, dog, domestic fowl, duck, goose, turkey or pigeon:

“stock food” means any by-product or manufactured stock food.

Non-application of Act

4. This Act shall not apply to or to the sale of—

- (a) any stock medicine within the meaning of the *Stock Medicines Act, 1939*;

* * * * *

- (c) any chaff or hay within the meaning of the *Chaff and Hay Act, 1922-1938*.

Label or invoice on sale of stock food

5. (1) Every person who sells any stock food shall either—

- (a) securely and conspicuously affix or cause to be affixed to every package containing the stock food a label in accordance with this section; or
 (b) deliver or cause to be delivered to the purchaser, at the time the stock food is sold or delivered, an invoice certificate in writing in accordance with this section.

(2) On every such label or invoice certificate there shall be set out—

- (a) the name and place of business of the person who manufactured or imported into South Australia the stock food or who was primarily responsible for placing the same on the market in South Australia;
 (b) the distinguishing name (if any) of the stock food;
 (c) a chemical analysis of the stock food stating—
 (i) the minimum percentage of crude protein;
 (ii) the minimum percentage of crude fat; and
 (iii) the maximum percentage of crude fibre, contained in the stock food; and
 (d) such other particulars as are prescribed.

(3) The provisions of subsections (1) and (2) of this section shall not apply in any case where a retailer breaks a package labelled as herein provided of any such stock food in order to sell portion of the stock food contained in the package without altering or adding to the stock food.

(4) This section shall extend so as to apply to any block, cake or slab of stock food which is not contained in a package; and for the purposes of such application a reference to the package containing the stock food shall be construed as a reference to the surface of the block, cake or slab.

Warranty on sale

6. (1) A label affixed as aforesaid or an invoice certificate given as aforesaid shall, notwithstanding any contract or notice to the contrary, have effect as a written warranty by the seller that the particulars contained therein are correct.

(2) Any statement as to the amount of the nutritive or other ingredients of an article sold for use as a stock food, made by the seller in any written document relating thereto given to the purchaser or in any circular or advertisement descriptive of the article, shall have effect as a warranty by the seller that the facts stated are correct.

(3) No action on any such warranty as is mentioned in this section shall lie for any mis-statement therein as to the particulars therein specified, or as to the amount of any ingredient, where the mis-statement does not exceed the limits of variation (if any) prescribed under any regulations made under this Act in relation to such particulars or amounts, but where the mis-statement exceeds such limits, the right of the purchaser under the warranty shall not be affected by such limits.

Power to prescribe standards

7. (1) The Governor may, by regulation—

- (a) prescribe substances which shall be deemed foreign ingredients relative to any stock food, and provide that the proportion or amount of such foreign ingredients that may be contained in any stock food shall not exceed the proportion or amount prescribed;
- (ab) prescribe any substance as a prescribed substance used for the treatment of grain for the purposes of enhancing its use as seed;
- (ac) prescribe any manner of treatment as a prescribed manner of treatment of grain for the purposes of enhancing its use as seed;
- (b) prescribe physical or chemical standards for any stock foods, and methods for determining the same;
- (c) prescribe that no person shall sell, offer or expose for sale, or have in his possession for sale any stock food unless such regulations are duly observed.

(2) Any person who acts in contravention of any regulation made under this section, or fails to comply therewith, shall be guilty of an offence against this Act, and liable to a penalty not exceeding one hundred dollars.

Penalties for breach of duty by seller

8. (1) If any person—

- (a) who sells any stock food fails without reasonable excuse either to affix a label as required by subsection (1) of section 5 or to give on or before or as soon as possible after the delivery of the stock food, an invoice certificate as required by subsection (1) of section 5; or

(b) sells any stock food, and the label or invoice certificate affixed thereto or given therewith as aforesaid is false in any material particular to the prejudice of the purchaser; or

(c) sells or offers or exposes for sale or has in his possession for sale for use as a stock food any article which contains any ingredient deleterious to stock, or to which has been added any ingredient worthless for the purposes of a stock food and not disclosed in writing to the purchaser at the time of sale,

he shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred dollars.

(2) A person shall not be convicted of an offence under paragraph (b) of subsection (1) if he proves either—

* * * * *

(b) that he purchased the article sold with a written warranty or invoice certificate from a person in South Australia, and that that warranty or invoice certificate contained the false statement in question, and that he had no reason to believe at the time when he sold the article that the statement was false, and that he sold the article in the state in which it was when he purchased it.

Offences in relation to seed grain

8a. (1) A person shall not feed seed grain to stock or suffer or permit any seed grain to be fed to stock.

Penalty: One hundred dollars.

(2) A person shall not sell or deliver any seed grain for use for a purpose other than as seed.

Penalty: One hundred dollars.

(3) Subject to subsection (5) of this section in proceedings for an offence that is a contravention of subsection (2) of this section it shall lie upon the defendant to prove that he had reasonable grounds for believing and did in fact believe that after the sale or delivery in question the seed grain would be used as seed.

(4) Except for the purposes of using the resultant mixture as seed, a person shall not mix seed grain with any grain that is not seed grain.

Penalty: Fifty dollars.

(5) In proceedings for an offence that is a contravention of a provision of this section it shall be a defence for the defendant to prove that he did not know and that he could not, by the exercise of reasonable diligence, have been expected to know, that the grain in question was seed grain.

Powers of Inspectors

9. (1) Any inspector may, at any time in the daytime, enter any warehouse, store, shop, building, or place where any stock food or seed grain is kept or exposed for sale, and demand and take samples thereof.

(2) An inspector may at any time take samples of any stock food or seed grain from any railway truck, car, cart, lorry, van, or other vehicle in which the same may be in course of transit to a purchaser.

(3) Three samples shall be taken by the inspector in each case and marked, sealed, and fastened by the inspector in the presence of the dealer or his representative, or, if the samples are taken under subsection (2) of this section, in the presence of a justice or a member of the police force, and shall be disposed of as follows:—

- I. One sample shall be delivered to the person in charge of, or left upon, the premises (if any) from which it was taken or if taken in course of transit as aforesaid, shall be delivered to the vendor or any agent of the vendor in South Australia, or left at the principal place of business in South Australia of such vendor or agent:
- II. One may be utilized for analysis by an analyst; and
- III. One shall be retained by the inspector for future comparison.

Publication of results of analysis

10. The result of the analysis of any sample of any stock food or seed grain taken by an inspector, together with the name and address of the dealer from whom the sample was obtained, or of the vendor, may be published in the *Gazette* and in such other manner as the Minister may think fit, and a statement of the result of any analysis shall be sent forthwith to the person from whose possession the sample was taken, or if taken in transit to the vendor or an agent of the vendor in South Australia.

Tampering with sample

11. Any person who—

- (a) tampers with any parcel of stock food or seed grain so as to procure that any sample of it taken in pursuance of this Act does not correctly represent the contents of the parcel; or
- (b) tampers with any sample taken under this Act,

shall be guilty of an offence against this Act, and liable to a penalty not exceeding one hundred dollars.

Certificate of analyst

12. In legal proceedings relating to a substance analysed pursuant to this Act, a certificate apparently signed by an analyst—

- (a) stating that an analysis of the substance referred to in the certificate was carried out by, or under the supervision of, the analyst on a date stated in the certificate;
- (b) describing the results of the analysis, shall be accepted as evidence of the facts stated in the certificate.

Defence

13. In any proceedings for an offence under this Act it shall be no defence to allege that the buyer, having bought only for analysis, was not prejudiced by the sale, or that the stock food, though deficient in one or more constituents, was not deficient in other constituents.

Marking of package in lieu of label

14. Where by this Act it is required that a label shall be affixed to a package it shall be a sufficient compliance if the particulars required to be given on the label are legibly and durably branded, stamped or marked upon the package.

Who may prosecute

15. A prosecution for an offence under this Act may be instituted either by the person aggrieved, by an inspector, or by any person authorized by the chief inspector. In any proceedings under this Act, the appointment of any person as an inspector, and the authorizing of any person to prosecute for any offence, shall be presumed, unless the defendant proves the contrary.

Appointment of inspectors

16. The Governor may appoint a chief inspector and such other inspectors under this Act as may be necessary for the administration of this Act.

Summary procedure for offences

17. All proceedings for offences under this Act shall be disposed of summarily.

Cost of analysis

18. Any person convicted of an offence against this Act shall be liable, in addition to any penalty imposed, to pay any expenses incurred by the prosecution in obtaining an analysis as part of the cost of the proceedings.

Saving of civil remedy

19. No proceedings taken under this Act against any person shall in any way interfere with or lessen any right or remedy by civil process of any party aggrieved by any offence against this Act.

Regulations

20. The Governor may make regulations—

- (a) prescribing the manner in which the particulars relating to any stock food shall be written on the package containing it or on a label affixed to the package or on an invoice certificate delivered with it and the manner in which a label containing the particulars shall be affixed to a package;
- (b) prescribing the size and type of labels to be affixed to any stock food;
- (c) declaring any commodity, substance, material or matter to be a by-product for the purposes of this Act;
- (d) prescribing limits of variation to be permitted in statements with respect to any stock foods as to the amounts of the ingredients of such stock foods and as to any other particulars relating to such stock foods;
- (e) prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

APPENDIX

Legislative History

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 10 of The Public General Acts of South Australia 1837-1975 at page 550.

Section 3:	definition of "analyst" inserted by 43, 1986, s. 7(a) definition of "manufactured stock food" amended by 75, 1972, s. 3(a); paragraph (b) repealed by 75, 1972, s. 3(b) definition of "seed grain" inserted by 75, 1972, s. 3(c)
Section 7(1):	amended by 75, 1972, s. 4(a)
Section 7(2):	amended by 75, 1972, s. 4(b)
Section 8(1):	amended by 75, 1972, s. 5
Section 8a:	inserted by 75, 1972, s. 6
Section 9(1):	amended by 75, 1972, s. 7(a)
Section 9(2):	amended by 75, 1972, s. 7(b)
Section 10:	amended by 75, 1972, s. 8
Section 11:	amended by 75, 1972, s. 9
Section 12:	amended by 75, 1972, s. 10; substituted by 43, 1986, s. 7(b)