(Reprint No. 1)

SOUTH AUSTRALIA

STOCK MEDICINES ACT, 1939

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

STOCK MEDICINES ACT, 1939

being

Stock Medicines Act, 1939, No. 26 of 1939 [Assented to 7 December 1939][1]

as amended by

Agricultural Chemicals Act, 1955, No. 54 of 1955 [Assented to 8 December 1955][2]
Stock Licks Act Repeal Act, 1956, No. 37 of 1956 [Assented to 15 November 1956]
Stock Medicines Act Amendment Act, 1973, No. 33 of 1973 [Assented to 4 October 1973][3]
Statutes Amendment (Agriculture) Act, 1978, No. 96 of 1978 [Assented to 7 December 1978]
Statutes Amendment (Analysts) Act, 1986, No. 43 of 1986 [Assented to 4 September 1986][4]

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

An Act to regulate the sale of stock medicines.

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 Medicines Act, 1939.*

Commencement

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

Interpretation

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

"biological product" means any vaccine, serum, or virus, whether living or dead, or any other product of bacterial growth:

"board" means the Stock Medicines Board:

"chief inspector" means the Chief Inspector of Stock:

"dealer" means any person who carries on business or trade as a seller of or dealer in any stock medicine, whether he is the manufacturer of the stock medicine or not and whether he carries on any other business or trade or not:

"expiry day" in relation to a registered stock medicine means the day on which, pursuant to this Act, the registration of that stock medicine expires:

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[1]Came into operation 1 July 1940: *Gaz.* 21 March 1940, p. 589.
[2]Came into operation 1 July 1957: *Gaz.* 27 June 1957, p. 1564.
[3]Came into operation 1 July 1977: *Gaz.* 20 January 1977, p. 98.
[4]Came into operation 16 October 1986: *Gaz.* 16 October 1986, p. 1373.

"Minister" means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor:

"registration period" in relation to the registration of a stock medicine, means—

(a) the period commencing on and including the day on which the *Stock Medicines Act Amendment Act, 1973*, comes into operation and concluding on and including the day fixed by proclamation under subsection (2) of this section;

and

(b) each consecutive period of three years that occurs after that day:

"sell" includes barter or exchange, and also includes dealing in, agreeing to sell, or offering or exposing for sale, or advertising for sale, or having in possession for sale, or sending, forwarding, or delivering for sale or on sale, or causing, suffering, or attempting any such acts or things: and the derivatives of "sell" have a corresponding inclusive meaning:

"stock" means any animal or bird of the following kinds or species, namely:—horse, ass, mule, cow, sheep, goat, pig, dog, cat, domestic fowl or turkey, any other domestic animal or bird, or any animal kept in captivity:

"stock medicine" means any substance, or mixture, or compound of substances, or biological product, which is intended to be administered or applied to stock by any means for the purpose of—

(a) preventing, diagnosing, curing, or alleviating any disease or injury in or to such stock; or

(b) improving the condition or increasing the capacity of such stock for work or production or show or racing purposes; or

(c) preventing insects or other pests from attacking such stock,

but does not include—

* * * * * * * * * *

(ii) any agricultural chemical within the meaning of the *Agricultural Chemicals Act, 1955*:

"wholesale dealer" means any person who, whether as manufacturer, importer, or wholesale seller, is primarily responsible for putting on the market in South Australia any stock medicine.

(2) The Governor may, by proclamation, fix a day as being the day on which the first registration period under this Act shall conclude.

Exemptions from Act

4. (1) This Act shall not apply to any stock medicine, not being a stock medicine that has been compounded by any manufacturer for sale or use prescribed in the course of his profession by a person registered under the *Veterinary Surgeons Act, 1935-1938*, or any person who is holder of a permit under Part IIIA of that Act, nor to any such stock medicine supplied by any such person for any stock for the time being under his professional care or charge.

(2) This Act shall not apply to any stock medicine which is compounded in respect of any particular stock in the ordinary course of his business by any person registered as a pharmaceutical chemist under the *Pharmacy Act, 1935-1937*, but shall apply to any substance compounded by any such person for general use in the State.

(3) The Governor may by proclamation declare that this Act shall not apply to any stock medicine either generally or when sold in any specified circumstances or quantities or part of the State, and may by proclamation revoke or vary any such proclamation.

Appointment of board

5. (1) For the purpose of this Act, the Governor may from time to time appoint a board to be called the "Stock Medicines Board".

(2) The board shall consist of—

(a) the chief inspector, who shall be the chairman of the board;

(b) the Government Analyst; and

(c) a bacteriologist appointed on the nomination of the Minister.

(3) The member appointed pursuant to paragraph *(c)* of subsection (2) shall hold office for a term not exceeding two years, but shall be eligible for re-appointment. The said member shall not, by virtue of his appointment as a member, be subject to the *Public Service Act, 1936-1938.*

(4) Subject to this Act, the board shall meet at such times and conduct its business in such manner as it may decide or as may be prescribed.

(5) A quorum of the board shall consist of any two members of the board, but no decision of the board shall be arrived at unless at least two members of the board agree to that decision.

(6) The board shall have and may exercise the powers and authorities under this Act and such further powers as may be prescribed.

Appointment of inspectors

6. The Governor may from time to time appoint persons to be inspectors for the purposes of this Act.

Application for registration of stock medicine

7. (1) Every wholesale dealer in any stock medicine shall within thirty days after the commencement of this Act or within thirty days after the date of his commencing in business or trade as such (whichever is the later date) and thereafter on or before the expiry day make to the chief inspector an application for registration of the stock medicine in writing in the prescribed form setting out—

(a) his name and place of business;

(b) the distinctive name of the stock medicine;

(c) the place of manufacture thereof and the name of the manufacturer;

(d) (i) in the case of a stock medicine other than a biological product—the prescription thereof, that is to say, the actual prescription to which the stock medicine is made, stating all the constituent parts and their respective proportions and the constituents thereof which are claimed to be active constituents; and

(ii) in the case of a stock medicine which is a biological product—the composition thereof, that is to say, the specific organism or product or ingredient claimed to be the active principle of the biological product and the concentration of such organism, product, or ingredient;

(e) full directions for the use and application of the stock medicine, and a statement of the diseases or injuries which it is intended or claimed to prevent, diagnose, cure, or alleviate or of the nature of the improvement in condition, or increase in capacity of stock which it is intended or claimed to effect (as the case may be); and

(f) such other matters as are prescribed.

(2) If any application is made for the registration of any stock medicine and the particulars required to be supplied pursuant to paragraph *(d)* of subsection (1) in respect of the stock medicine are supplied to the chief inspector by the manufacturer of the stock medicine or by some person on behalf of the manufacturer, and the particulars are verified by a statutory declaration by the manufacturer or person or in the case of a body corporate, the manager thereof, it shall not be necessary for the applicant for registration of the stock medicine to supply to the chief inspector the particulars required to be supplied under paragraph *(d)* of subsection (1).

(3) Every such application shall be accompanied by—

(a) a statutory declaration by the wholesale dealer or in the case of a body corporate, the manager thereof, verifying the statements and particulars contained in the application; and

(b) a fee calculated in accordance with subsection (3a) of this section for every such stock medicine:

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(3a) In the case of an application for registration in respect of a registration period—

(a) that has not commenced or of which more than two years have yet to elapse, the fee shall be fifteen dollars;

(b) of which more than one year but two years or less has yet to elapse, the fee shall be ten dollars;

and

(c) of which one year or less than one year has yet to elapse, the fee shall be five dollars.

(4) If any wholesale dealer in any stock medicine—

(a) proposes to sell any stock medicine in addition to those registered under this Act; or

(b) alters in any way the prescription or composition of any stock medicine registered under this Act,

the wholesale dealer shall, before commencing to sell the additional stock medicine or the stock medicine as so altered, make with respect to the same a like application for registration as hereinbefore prescribed.

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Applications for registration to be submitted to board

9. (1) Every application for registration of any stock medicine shall be submitted by the chief inspector to the board for its report and recommendation thereon.

(2) No stock medicine shall be registered by the chief inspector except upon and in accordance with the recommendation of the board.

(3) Every registration of a stock medicine shall be made in respect only of its sale for use for such purposes as the board in its report approves.

(4) Before recommending to the chief inspector that any stock medicine should not be registered or that any stock medicine should be registered in respect of its sale for use for some only of the purposes indicated in the application for registration, the board shall give to the applicant for registration an opportunity to be heard personally in support of his application.

Register of registered stock medicine

10. (1) The chief inspector shall cause to be kept a register in the prescribed form of all stock medicines registered under this Act showing—

(a) the respective distinctive names of the stock medicines;

(b) the respective prescriptions or compositions of the stock medicines as set out in applications for registration;

(c) the respective purposes for which the stock medicines may in accordance with the board's report be sold for use; and

(d) such other matters as are prescribed.

(2) A copy of the register of registered stock medicines (omitting the prescriptions or compositions thereof) shall be kept and maintained at the office of the chief inspector and shall be available for public inspection without fee.

(3) The registration of any stock medicine—

(a) that was in force immediately before the commencement of the *Stock Medicines Act Amendment Act, 1973*, shall expire on the last day of the registration period that commenced on the day on which that Act came into operation;

and

(b) that was effected on or after the commencement of the *Stock Medicines Act Amendment Act, 1973*, shall expire on the last day of the registration period in respect of which it was registered.

(4) On and after the expiry day the registration of a stock medicine shall cease to have any further force or effect and unless that stock medicine has again been registered under this Act that stock medicine shall cease to be a registered stock medicine for the purposes of this Act.

References to this Act, etc., upon packages and in advertisements

11. (1) Every package of a registered stock medicine shall bear thereon the words "Registered under the *Stock Medicines Act, 1939*".

If the chief inspector is satisfied that any registered stock medicine is also registered under any Act of any other State of the Commonwealth which provides for the registration of stock medicines, the chief inspector may, by notice published in the *Government Gazette*, declare that, for the period specified in the notice, it shall be sufficient compliance with this subsection if any package of the registered stock medicine bears thereon words indicating that the stock medicine is registered under such Act. Any such notice may be revoked by notice published in the *Government Gazette* and whilst the notice is in force it shall be sufficient compliance with this subsection if the provisions of the notice are complied with.

(2) No package of a registered stock medicine shall bear thereon and no written or printed matter relating to any registered stock medicine shall contain—

(a) any reference to this Act other than the words "Registered under the *Stock Medicines Act, 1939*"; or

(b) any statement suggesting or implying that the stock medicine has been recommended or approved by the Government or any other Government authority.

(3) Any person who—

(a) sells any package of a registered stock medicine which—

(i) does not bear thereon the words prescribed by subsection (1) of this section; or

(ii) bears thereon any reference or statement in contravention of subsection (2) of this section; or

(b) publishes, circulates or distributes or causes to be published, circulated or distributed, any written or printed matter relating to any registered stock medicine which contains any reference or statement in contravention of subsection (2) of this section,

shall be guilty of an offence against this Act, and liable to a penalty of not more than ten dollars.

Offences in relation to sale and advertisement of stock medicines

12. Any person who after the expiration of a period of twelve months after the commencement of this Act—

(a) sells any stock medicine which is not registered under this Act;

(b) sells under the name of a registered stock medicine any stock medicine which does not conform with the registered prescription or composition of that registered stock medicine; or

(c) sells any registered stock medicine in respect of which any claim or statement as to its efficacy for use for any purpose, other than those in respect of which it is registered, has been made by him or with his consent either verbally or in any written or printed matter relating thereto,

shall be guilty of an offence against this Act, and liable for a first offence to a penalty of not more than forty dollars and for any subsequent offence to a penalty of not less than ten or more than one hundred dollars:

Provided that no person other than the wholesale dealer in any registered stock medicine shall be deemed guilty of any offence against paragraph *(b)* of this section unless it is proved that he knew that the stock medicine sold did not conform with the registered prescription or composition.

Cancellation of registration

13. If any wholesale dealer in any registered stock medicine—

(a) sells under the name of such registered stock medicine any stock medicine which does not conform with the registered prescription or composition of such registered stock medicine; or

(b) publishes, circulates, or distributes, or causes to be published, circulated, or distributed, any written or printed matter containing any claim or statement as to the efficacy of such registered stock medicine for use for any purpose other than those in respect of which it is registered; or

(c) publishes, circulates, or distributes, or causes to be published, circulated, or distributed, any written or printed matter containing any claim or statement with respect to such registered stock medicine which in the opinion of the board is misleading or untrue,

the chief inspector may, upon the recommendation of the board, cause the registration of such stock medicine to be cancelled.

Cancellation of the registration of a stock medicine

14. (1) Where the board is satisfied on such evidence as it considers reasonable that the use or continued use of a registered stock medicine—

(a) constitutes or may constitute a danger to public health;

(b) does not achieve or may not achieve the results claimed for that use;

(c) constitutes or may constitute a danger to stock;

or

(d) affects or may affect the export from this State of products derived directly or indirectly from the animals or birds in respect of which it is intended for use,

the board may by notice published in the *Gazette* cancel the registration of that stock medicine.

(2) Upon the publication of a notice referred to in subsection (1) of this section the registered stock medicine in respect of which that notice was so published shall cease to be a registered stock medicine for the purposes of this Act.

Powers of inspectors

15. (1) For the purpose of ascertaining whether the provisions of this Act are being complied with, any inspector—

(a) shall have free access at all reasonable times to any shop, store, building, or vehicle wherein any stock medicine is prepared or sold or offered or exposed or carried for sale; and

(b) may examine and without payment therefor take for the purposes hereinafter provided samples of such stock medicine.

(2) Any such samples shall if possible be taken in the presence of the vendor or of the person apparently in charge of the stock medicine.

(3) The samples of any one kind of stock medicine taken shall be thoroughly mixed and then divided into three approximately equal parts: Provided that when any such medicine is made up in packages three such packages may be taken and dealt with as if they were the three parts into which the samples are to be divided.

(4) Each of such parts shall be sealed or fastened up in such manner as its nature permits and a label shall be placed on each such part stating the name of the vendor or the person apparently in charge of the lot from which the samples are taken and the time and place of taking. The label shall be signed by the person taking the samples and also where practicable by the vendor or person apparently in charge of the lot from which the samples are taken.

(5) The inspector shall—

(a) retain one such part;

(b) forward one such part to an analyst for analysis;

and

(c) deliver one such part to the vendor or the person apparently in charge of the lot from which the samples are taken if such vendor or person is present at the time of sampling.

(5a) In subsection (5) "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.

(6) Where the inspector takes any samples in the absence of such vendor or person he shall—

(a) give notice in writing of such taking to such vendor or person; and

(b) deliver or forward one part to such vendor or person.

(7) Where in any prosecution or proceeding under this Act a contravention of any of the provisions of this Act is proved with respect to any part of samples taken as aforesaid such contravention shall be deemed to have been proved with respect to the whole lot from which the samples were taken.

Penalty for preventing, etc., inspector from execution of powers and duties

16. Any person who prevents, delays, obstructs, or hinders any inspector from or in the execution of his powers and duties under this Act shall be guilty of an offence against this Act, and liable to a penalty of not more than forty dollars.

Duty of dealers to provide samples to board when so required

17. Every dealer in any stock medicine shall when so required by the board forward without payment to the board for analysis a sample of such stock medicine.

Saving of inspectors, etc., from liability

18. No member of the board or inspector shall, except in respect of wilful misconduct or neglect, be liable to any legal proceedings for anything done or omitted to be done in the exercise or execution of any of his powers or duties under this Act.

Regulations

19. The Governor may make regulations for or with respect to—

(a) prescribing the times and places of meeting of the board and the conduct of the business thereof;

(aa) prohibiting the administration of any prescribed substance or mixture to stock;

(ab) prohibiting the application of any prescribed substance to stock;

(ac) prescribing the amounts of any prescribed substance or mixtures that may be administered to or applied to prescribed stock;

(ad) prescribing the conditions under which any prescribed stock medicine may be sold;

(b) prescribing subject to this Act the form and manner of applications for registration of stock medicines;

(c) prescribing subject to this Act the form of the register of stock medicines and the particulars to be recorded therein;

(d) generally, prescribing any matter or thing required or permitted to be prescribed or necessary or expedient to be prescribed for carrying this Act into effect;

and

(e) prescribing or providing for penalties not exceeding one hundred dollars for any breach of or failure to comply with any provision of the regulations.

Proceedings for offences

20. All proceedings for offences against this Act shall be disposed of summarily.

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 562.

Section 3:	redesignated as s. 3(1) by 33, 1973, s. 3(d) definition of "expiry day" inserted by 33, 1973, s. 3(a) definition of "registration period" inserted by 33, 1973, s. 3(b) definition of "sell" amended by 33, 1973, s. 3(c)
Section 3(2):	inserted by 33, 1973, s. 3(d)
Section 4(1):	amended by 33, 1973, s. 4
Section 7(1):	amended by 33, 1973, s. 5(a)
Section 7(3):	amended by 33, 1973, s. 5(b)
Section 7(3) proviso:	repealed by 33, 1973, s. 5(c)
Section 7(3a):	inserted by 33, 1973, s. 5(d)
Section 7(4):	amended by 33, 1973, s. 5(e)
Section 8:	repealed by 33, 1973, s. 6
Section 10(2) and (3):	substituted by 33, 1973, s. 7
Section 10(4):	inserted by 33, 1973, s. 7
Section 11(2):	amended by 96, 1978, s. 27
Section 14:	substituted by 33, 1973, s. 8
Section 15(5):	substituted by 33, 1973, s. 9; amended by 43, 1986, s. 8(a)
Section 15(5a):	inserted by 33, 1973, s. 9; substituted by 43, 1986, s. 8(b)
Section 19:	amended by 33, 1973, s. 10