

Wool, Hide and Skin Dealers Bill 2004

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to regulate persons who carry on the business of buying or selling the wool, hides or skins of cows, sheep and certain other animals.

This Bill contains provisions arising as a result of a departmental review of the *Wool, Hide and Skin Dealers Act 1935* conducted in the context of a National Competition Policy review. Under the 1935 Act, licences are issued by a Local Court and are required by any person buying or selling wool, hides or skins of various animals (although there are certain exemptions). This Bill requires only those in the business of buying and selling wool, hides or skins to be licensed by the Commissioner of Police. The obligations created by this Bill are concerned with identifying and reporting wool, hides or skins that may have been stolen and are very similar to those imposed on pawnbrokers and dealers in secondhand goods.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides that the proposed Act commences on a day or days to be appointed by proclamation.

Clause 3 defines terms used in the proposed Act. **Hide** and **skin** are defined as meaning the hide or skin of any bovine animal, any ovine animal or any other animal prescribed by the regulations before treatment in any process of manufacture. **Wool** is defined as meaning the fleece of any ovine animal or any other animal prescribed by the regulations before treatment in any process of manufacture (but does not include fellmongered wool). **Buy** and **sell** are given broad definitions.

Clause 4 makes it clear that notes included in the proposed Act do not form part of the proposed Act.

Clause 5 defines a **wool, hide or skin dealer** as a person who buys wool, hides or skins for the purpose of selling that wool or those hides or skins, or in connection with the person's business of selling wool, hides or skins, except in specified or prescribed circumstances.

Clause 6 provides that the proposed Act does not apply so as to affect any activities conducted in accordance with a licence, permit or other authority under another Act (for example, the *Property, Stock and Business Agents Act 2002*). In particular, the proposed Act does not require a person to obtain a licence under the proposed Act to carry on a business or any activity that is authorised by a licence, permit or other authority issued to that person under any other Act.

Part 2 Licensing of wool, hide and skin dealers

Division 1 Requirement to be licensed

Clause 7 makes it an offence to carry on the business of a wool, hide or skin dealer unless licensed to do so.

Clause 8 makes it an offence for a person who is not a licensee to pretend to be a licensee or to take, use or exhibit any title or term that may be construed to mean that the person is licensed to carry on the business of buying or selling wool, hides or skins.

Division 2 Persons not entitled to be issued with a licence

Clause 9 specifies when a natural person or a corporation is not entitled to be issued with a licence.

Division 3 Applying for a licence

Clause 10 requires an application for the issue of a licence to be made to the Commissioner of Police, in the form approved by the Commissioner. The application is required to be accompanied by at least two forms of evidence of the identity of the applicant or, in the case where the applicant is a corporation, evidence of the identity of the licensee who is an employee or director of the applicant. There is no application fee.

Clause 11 requires an applicant for a licence to nominate all premises that the applicant intends to make regular use of, whether as business premises or storage premises, for the purposes of carrying on the proposed licensed business. The proposed section also makes it a condition of any licence granted to the applicant that the applicant as licensee carries on the business only from, or stores wool, hides or skins only at, the premises nominated in the application for the licence.

Division 4 Dealing with licence applications

Clause 12 provides for the Commissioner to deal with a licence application by granting a licence to the applicant or by refusing to grant the licence.

Clause 13 provides that a licence remains in force for a period of 3 years after the date of its grant, unless it is sooner cancelled or suspended under the proposed Act.

Clause 14 provides for the Commissioner to grant a licence subject to conditions. It also provides for the Commissioner to attach conditions to a licence at some time after it is granted (which may be as part of action against a licensee under Part 5).

Division 5 Review of decisions

Clause 15 provides for the review by the Administrative Decisions Tribunal of certain decisions made by the Commissioner under the proposed Act.

Division 6 Miscellaneous provisions

Clause 16 provides for the creation of a register of licences.

Clause 17 requires a licensee to display on all premises used for the carrying on of a licensed business the licensee's initials and surname and the words "Licensed Dealer in Wool, Hides and Skins". The regulations may make additional requirements regarding the display of licence details.

Part 3 Obligations and duties of licensees

Clause 18 provides that the proposed Part imposes obligations and duties on a licensee in relation to the buying or selling of, or the custody of, wool, hides or skins even if the wool, hides or skins are not bought or sold in the course of the business of a wool, hide or skin dealer.

Clause 19 requires a licensee to obtain the signature of each person who offers wool, hides or skins for sale to the licensee or proof that that person consents to the sale. The clause also requires a licensee to inspect documentary evidence of the identity of every person who delivers wool, hides or skins to the licensee. That evidence must include evidence of the person's date of birth and address. A licensee is required to obtain the evidence of identity only once for each person by whom the wool, hides or skins are delivered.

Clause 20 provides for the Commissioner of Police or a police officer to serve on a licensee a written order requiring the licensee to refrain, during a specified period not exceeding 5 days, from disposing of such lots or parcels of wool, hides or skins (including their containers) as are specified in the order, and to retain during that period the lots, parcels and containers to which the order relates without altering or obliterating any brand, marking or writing on them.

Clause 21 provides that a licensee must not accept any wool, hides or skins offered for sale if the licensee has reasonable grounds to believe that the wool, hides or skins are not the property of the person by whom they are offered for sale or of any person for whom that person is authorised to make the offer.

Clause 22 requires any licensee, or any employee of a licensee, who suspects

for any reason that any wool, hides or skins offered to the licensee or employee for sale may have been stolen or otherwise unlawfully obtained to report the cause of that suspicion to the police.

Clause 23 requires any licensee, or any employee of a licensee, who suspects for any reason that any wool, hides or skins in the custody of the licensee or employee in the course of the licensee's business may have been stolen or otherwise unlawfully obtained to report the cause of that suspicion to the police.

Clause 24 requires a licensee to advise the Commissioner immediately if the licensee becomes a person who would not be entitled to be issued with a licence (for instance, a licensee that is a corporation must advise the Commissioner if any of its directors or executive officers becomes a person who is not entitled to be issued with a licence).

Part 4 Records

Clause 25 provides that the proposed Part imposes obligations and duties on a licensee in relation to the buying or selling of wool, hides or skins even if the wool, hides or skins are not bought or sold in the course of the business of a wool, hide or skin dealer.

Clause 26 requires a licensee to keep certain records of all transactions for the buying or selling of wool, hides or skins, including details of the person selling or delivering the wool, hides or skins.

Clause 27 requires those records to be kept for at least 5 years.

Part 5 Action against licensees

Clause 28 provides for the Commissioner to serve on a licensee a notice to show cause why the licensee's licence should not be cancelled (such a notice is called a **show cause notice**). Such a notice may only be served in the circumstances listed in the proposed section.

Clause 29 provides for a licensee to make written submissions and adduce evidence in relation to the matters raised by a show cause notice.

Clause 30 provides for action by the Commissioner. The Commissioner may undertake inquiries and investigations in relation to the matters to which a show cause notice relates and any submissions made and evidence adduced by or on behalf of the licensee in relation to those matters. If, after those inquiries and investigations, the Commissioner is satisfied on the balance of probabilities that the ground of any show cause notice has been substantiated, the Commissioner may cancel or suspend the licensee's licence, attach conditions to it or determine that a licence is not to be granted to the same licensee in future.

Clause 31 provides that the proposed provisions dealing with action against licensees may be applied against former licensees and explains how they are to be applied.

Clause 32 provides for action against a licensee to be stopped by the Commissioner.

Clause 33 requires a licensee to surrender a cancelled licence.

Part 6 Police powers

Clause 34 provides for the issue of search warrants to police officers for the purposes of the proposed Act.

Clause 35 sets out the powers of a police officer regarding entry and search of premises, the stopping and searching of vehicles and the inspection of wool, hides or skins.

Clause 36 empowers a police officer to enter premises where a licensed business is carried on to inspect records.

Clause 37 empowers a police officer to require the production of certain records including records required to be kept under the proposed Act. The proposed section also empowers a police officer to require a person to identify and locate records that correspond to particular wool, hides or skins or to identify and locate

wool, hides or skins that correspond to particular records.

Clause 38 provides for the seizure of records produced to a police officer.

Part 7 Miscellaneous

Clause 39 provides that the proposed Act binds the Crown.

Clause 40 provides that proceedings for an offence under the proposed Act or the regulations may be dealt with summarily. Such proceedings will be dealt with by a Local Court.

Clause 41 sets out when executive officers of corporations will be liable for offences committed by those corporations.

Clause 42 provides for the service of documents under the proposed Act.

Clause 43 provides for the making of regulations under the proposed Act.

Clause 44 repeals the *Wool, Hide and Skin Dealers Act 1935* and an uncommenced amending Act.

Clause 45 gives effect to a Schedule of consequential amendments to Acts.

Clause 46 gives effect to the Schedule of savings and transitional provisions.

Clause 47 provides for the review of the proposed Act by the Minister.

Schedule 1 Evidence of identity

Schedule 1 specifies the documents that will be enough to prove identity when applying for a licence or when selling wool, hides or skins to a licensee.

Schedule 2 Amendment of Acts

Schedule 2 amends certain Acts as a consequence of the enactment of the proposed Act.

Schedule 3 Savings and transitional provisions

Schedule 3 makes savings and transitional provisions consequent on the enactment of the proposed Act.