

Stock Medicines Amendment Bill 2004

New South Wales

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Stock Medicines Act 1989* (the **Principal Act**):

- (a) to specify the objects of the Act, and
- (b) to impose further safeguards in relation to the use of stock medicines on major food producing species, and
- (c) to define **major food producing species** as cattle, sheep, pigs or chickens or any other species prescribed by the regulations, and
- (d) to enable a person to use a stock medicine intended for a major food producing species on stock of some other food producing species so long as certain requirements are complied with, and
- (e) to ensure that relevant instructions are given to the owner or person in charge of stock in relation to the treatment of the stock with a stock medicine, and
- (f) to remove certain offences relating to the use of unregistered stock medicines on animals that are not of a food producing species, and
- (g) to ensure that records are kept by veterinary surgeons of certain treatments or prescriptions relating to stock medicines, and
- (h) to remove offences relating to the advertising of stock medicines, and
- (i) to extend the grounds on which orders may be made under the Act prohibiting or regulating the use of a stock medicine or recalling a stock medicine, and
- (j) to repeal provisions of the Act the operation of which is currently suspended under the *Agricultural and Veterinary Chemicals (New South Wales) Regulation 2000* because those provisions are covered by Commonwealth law, and
- (k) to enable penalty notices to be issued for offences against the Act or the regulations, and
- (l) to make other miscellaneous amendments.

The Bill also makes consequential amendments to several Acts.

Outline of provisions

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

Clause 2 provides for the commencement of the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the consequential amendments to Acts set out in Schedule 2.

Regulation of use of stock medicines

Schedule 1 [3] inserts definitions of **food producing species**, **major food producing species** and **registered stock medicine** into the Principal Act.

Part 5 of the Principal Act contains provisions relating to the control of stock medicines.

Schedule 1 [11] inserts proposed section 36A into the Principal Act which defines certain terms used in Part 5. The term **use instructions** is defined to mean the instructions that are required or permitted by the Agvet Code of the Commonwealth to be on the package of stock medicine relating to the use of the stock medicine on stock or the way in which stock or products of stock are to be treated after the stock medicine has been used on the stock. They include such instructions as the dosage rate, method of administration and the withholding period. A provision is also included that makes it clear that a reference in Part 5 to using a stock medicine on stock includes a reference to giving it stock food that has been treated with a stock

medicine. **Schedule 1 [4], [15], [16] and [17]** contain consequential amendments.

Schedule 1 [12] omits the offence contained in section 37 (2) of the Principal Act of a person having possession of a stock medicine that contains a restricted substance within the meaning of the *Poisons and Therapeutic Goods Act 1966* if the person has been supplied with that stock medicine in contravention of that Act. **Schedule 1 [20]** contains a consequential amendment.

Schedule 1 [13] omits sections 38–40 of the Principal Act (and inserts new sections 38, 39, 39A–39F and 40) so as to make the following changes:

(a) to remove the offence currently contained in section 38 (2) of the Principal Act of using an unregistered stock medicine on stock that is not a member of a food producing species and to replace it with an offence (in proposed section 39C (3)) that prevents a veterinary surgeon from prescribing or supplying an unregistered stock medicine for use on such stock unless the stock medicine complies with certain requirements,

(b) to enable a veterinary surgeon to use or prescribe the use of an unregistered stock medicine on a particular animal under the veterinary surgeon's care (proposed sections 39A (1) and (3) (a) and 39C (1)),

(c) to prevent a veterinary surgeon from using or prescribing the use of a registered stock medicine in a manner that is contrary to certain use instructions unless it is for the purpose of treating a particular animal under the veterinary surgeon's care or is in accordance with certain permits or orders under the Principal Act (proposed sections 39A (2) and (3) and 39C (2)),

(d) to give a person who is not a veterinary surgeon a defence from the offences of using an unregistered stock medicine on stock of a food producing species or a registered stock medicine in a manner that is contrary to the use instructions if the person is acting on the instructions of a veterinary surgeon or in accordance with certain permits or orders under the Principal Act (proposed sections 38 (2), 39 (2) and 39B (2)),

(e) to give a person who is not a veterinary surgeon a defence from the offence of using a registered stock medicine in a manner that is contrary to the use instructions if the stock medicine is intended for use on stock of a major food producing species but the person is using it on stock of some other food producing species in accordance with certain use instructions (proposed sections 39 (2) and 39B (3)),

(f) to ensure that if a veterinary surgeon uses or prescribes certain stock medicines or uses registered stock medicines in a manner contrary to the use instructions, or prescribes such a use of a stock medicine, the veterinary surgeon is to give written instructions containing specified information to the owner or person in charge of the stock and (where relevant) to the person supplying the stock medicine (proposed section 39D),

(g) to require that veterinary surgeons keep records of matters referred to in paragraph (f) (proposed section 39E),

(h) to require certain information to be provided to the owner or person in charge of stock of a food producing species by a person (other than a veterinary surgeon) who has treated the stock with a stock medicine (proposed section 39F),

(i) to prevent a veterinary surgeon using an unregistered stock medicine on stock of a food producing species, or prescribing an unregistered stock medicine for use on such stock, or from using a registered stock medicine on stock of a major food producing species, or prescribing such a use of a registered stock medicine, in a manner contrary to the use instructions if to do so would result in the stock or products from the stock containing chemical residues in contravention of the Food Standards Code of the Commonwealth (proposed section 40).

Schedule 1 [14] amends section 40A of the Principal Act to require the owner of stock of a food producing species to ensure that a person with whom the owner has made arrangements to sell the stock has been informed of any relevant withholding period applying to the stock if the stock has been treated with a stock medicine. Similarly, a person in charge of stock of a food producing species, in cases where the person in charge is not the owner of the stock, is to give the same information to a person with whom the person in charge has made arrangements to sell the stock on behalf of the owner. Currently, this obligation is on the owner of the stock only.

Schedule 1 [19] inserts proposed section 41A which makes it an offence for a person who is aware that a notice has been issued under section 55 of the Agvet Code of the Commonwealth in relation to a stock medicine to fail to deal with any such stock medicine in the person's possession in accordance with the notice.

Orders prohibiting or regulating the supply or use of stock medicines or recalling stock medicines

Section 46 of the Principal Act currently enables the Director-General of the Department of Primary Industries to make orders prohibiting or regulating the use of a stock medicine or requiring its recall. **Schedule 1 [24]** expands the grounds on which such orders may be made to include, for example, grounds relating to stock medicines causing adverse effects on the promotion of trade or impeding the control or eradication of diseases and pests in animals. **Schedule 1 [25]** makes it clear that such orders may provide for exemptions. **Schedule 1 [26]** replaces the existing provisions relating to the publication of such orders to enable the Director-General to determine the most effective method of publication rather than requiring publication in a newspaper. The current requirement that such orders be published in the Gazette is retained.

Schedule 1 [27] replaces the existing offence of wilfully contravening such an order with an offence of contravening the order without reasonable excuse.

Miscellaneous amendments

Schedule 1 [1] specifies the objects of the Principal Act.

Schedule 1 [2], [5]–[10], [22], [23], [31], [35], [36], [38], [39] and [42] repeal provisions that are currently suspended under the *Agricultural and Veterinary Chemicals (New South Wales) Regulation 2000* or are otherwise no longer required. Included in the repeal are provisions establishing a Stock Medicines Board that had functions only in relation to the suspended provisions and has therefore ceased to operate.

Schedule 1 [18] updates an out of date reference.

Schedule 1 [21] omits section 43 of the Principal Act which contains certain offences relating to the advertising of stock medicines. **Schedule 1 [37]** repeals a regulation-making power relating to advertising.

Schedule 1 [28] and [29] specifically enable authorisations of inspectors and analysts under the Principal Act to be made subject to conditions.

Schedule 1 [30] expands the powers of inspectors under the Principal Act to require the production of certain documents and enables inspectors to take those documents away for such time as is reasonably necessary to enable them to be copied.

Schedule 1 [32] increases the limit on the monetary penalty that may be imposed by a Local Court for an offence under the Principal Act or the regulations.

Schedule 1 [33] removes the restriction that proceedings for an offence against the Principal Act or the regulations may be taken only by a person authorised by the Minister.

Schedule 1 [34] inserts proposed section 60A into the Principal Act which enables penalty notices to be issued for offences against the Principal Act or the regulations that are offences prescribed by the regulations for the purposes of the proposed section.

Schedule 1 [40], [41] and [43] contain savings and transitional provisions.

Consequential amendment of Acts

Schedule 2 makes consequential amendments to the *Fines Act 1996* and the *Veterinary Practice Act 2003*. The Schedule also amends the Principal Act to reflect changes in terminology to be made by the *Veterinary Practice Act 2003* when it commences.