

FIRST PRINT

## STOCK DISEASES (AMENDMENT) BILL 1991

NEW SOUTH WALES



### EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of the Bill is to amend the Stock Diseases Act 1923 so as:

- (a) to provide for the temporary closure, within a prescribed area, of roads, travelling stock reserves and public places to certain walking and grazing stock with a view to eradicating or reducing the incidence of footrot and other designated diseases; and
- (b) to provide for the issue of penalty notices in respect of certain offences against the Act and the regulations; and
- (c) to make it an offence to make a statement to the effect that stock are free of disease when the maker of the statement either knows that the statement is false or misleading or is recklessly indifferent as to the truth or falsity of the statement; and
- (d) to make officers of corporations liable for contraventions of the Act and regulations under the Act committed by the corporations; and
- (e) to make other changes of an administrative nature.

The Bill also contains other amendments by way of statute law revision.

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Clause 1 specifies the short title of the Act.

Clause 2 provides for the proposed Act generally to commence on a day or days to be proclaimed. However, clauses 1 and 2, proposed Schedule 4 and clause 3, so far as it relates to that Schedule, will commence on the date of assent to the proposed Act.

Clause 3 provides for the Stock Diseases Act 1923 to be amended as set out in Schedules 1-4.

### SCHEDULE 1—AMENDMENTS RELATING TO CONTROL OF FOOTROT ETC.

Schedule 1 (1) inserts into Part 4 of the Act (Control of diseases in stock) proposed Division 2A, which is intended to confer on the Minister further powers to control

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footrot and other designated diseases. The proposed Division contains the following provisions:

Proposed section 15A, which defines certain expressions used in the Division, including "designated disease" which includes footrot and any other disease declared by the Governor-in-Council to be a designated disease for the purposes of the Division.

Proposed section 15B, which will empower the Minister to make an order temporarily closing roads, travelling stock reserves and public places within a prescribed area to walking and grazing stock, or to walking and grazing stock of a specified class, whenever he or she considers that the stock could:

- \* cause those roads, reserves or places to become infected with a designated disease; or
- \* cause other stock within the area to become infected with such a disease; or
- \* where holdings, roads, travelling stock reserves and public places within the area are currently not infected with such a disease—expose those holdings, roads, reserves and places to the disease.

Proposed section 15C, which provides that, while an order under proposed section 15B is in force, all walking stock permits, grazing permits, stock licences and stock holding authorities are to be suspended as regards the movement or grazing of stock over or on the roads and travelling stock reserves that are affected by the order, except to the extent that the order otherwise provides.

Schedule 1 (2) amends section 20H of the Act (Compliance with proclamations, orders, undertakings etc.). As a result of the amendment, it will be an offence to contravene a condition subject to which persons or stock are exempted from an order made under the Act. (Section 20H already makes it an offence for a person to contravene a provision of an order made under the Act.)

#### SCHEDULE 2—AMENDMENTS RELATING TO OFFENCES

Schedule 2 (1) amends section 20J of the Act (Supplying false etc. information). The amendment creates a new offence of making, in the course of selling stock, a false or misleading statement to the effect:

- \* that the stock are free from disease or from a specified disease; or
- \* that the stock have not been on land that is infected with disease or with a specified disease; or
- \* where the maker of the statement is not the owner or person in charge of the stock—that the owner or person in charge of the stock has certified or stated that the stock are free from disease or from a specified disease.

The maximum penalty for the offence is to be 100 penalty units (\$10,000).

Schedule 2 (2) inserts into the Act proposed sections 20N and 20O.

Proposed section 20N provides that, where a corporation has committed a contravention of the Act or of regulations in force under the Act, any officer of the corporation who knowingly authorised or permitted the contravention will be taken to have also committed the contravention and will be liable to be convicted and punished for the contravention.

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Proposed section 200 will enable an authorised inspector to issue a penalty notice if it appears to the inspector that a person has committed an offence against the Act, or an offence against regulations made under the Act, that is prescribed by the regulations. The proposed section makes it clear that a person served with such a notice is not obliged to pay the specified penalty but may have the matter dealt with before the appropriate court and sets out the procedure to be followed in respect of the service of penalty notices.

**SCHEDULE 3—AMENDMENTS RELATING TO  
ADMINISTRATIVE MATTERS**

Schedule 3 (1) amends section 8 of the Act (Further powers of inspectors) by providing that an order requiring a person to fence land within a quarantine area will be required to be in a form approved by the Chief, Division of Animal Health instead of in a form prescribed by the regulations.

Schedule 3 (2) amends section 9 of the Act (Occupier etc. to give notice). As a result of the amendment it will no longer be necessary for a person to give notice of a suspected disease in stock in "the prescribed form". In future, it will be sufficient if such a notice is given in writing.

Schedule 3 (3) amends section 11 of the Act, which enables the Minister to accept an undertaking from an owner or occupier of land to comply with specified requirements instead of declaring the land to be a quarantine area. The amendment provides that an undertaking given under the section will no longer have to be in "the prescribed form" and in future it will be sufficient if such an undertaking is in a form acceptable to the Minister.

Schedule 3 (4) amends section 13 of the Act (Power to order fencing) by providing that an order requiring fencing, or repairs or additions to fencing, to be carried out need only be in writing rather than in "the prescribed form".

Schedule 3 (5) amends section 16 of the Act (Musters) by providing that, where an inspector brands mustered stock, it will be sufficient for the brand to be approved by the Chief, Division of Animal Health rather than be prescribed by regulations under the Act.

Schedule 3 (6) amends section 17 of the Act (Power to order destruction) by providing that infected stock and certain other items that the Minister has ordered to be destroyed or disposed of are to be destroyed or disposed of in a manner and under conditions specified in the order. At present, the section provides that, if infected stock or items are to be destroyed, the destruction is to be carried out in a manner prescribed by regulations in force under the Act.

Schedule 3 (7) makes an amendment to section 19A of the Act (Identification of certain cattle, swine and other stock). The amendment is consequential on the repeal of section 19B of the Act. (See Schedule 3 (8).)

Schedule 3 (8) repeals section 19B of the Act (Licence to keep stock).

Schedule 3 (9) amends section 19F of the Act (Authority for the manufacture of tags) by removing the need for an order under the section to be "in or to the effect of the prescribed form". In future, it will be sufficient for such an order to be in writing.

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Schedule 3 (10) amends section 23 of the Act (Power to make regulations). The amendment is consequential on the repeal of section 19B of the Act. (See Schedule 3 (8).)

**SCHEDULE 4—AMENDMENTS BY WAY OF STATUTE LAW REVISION**

Schedule 4 updates the Act by making several amendments by way of statute law revision. The amendments involve no change to the substance of the provisions that are being amended.

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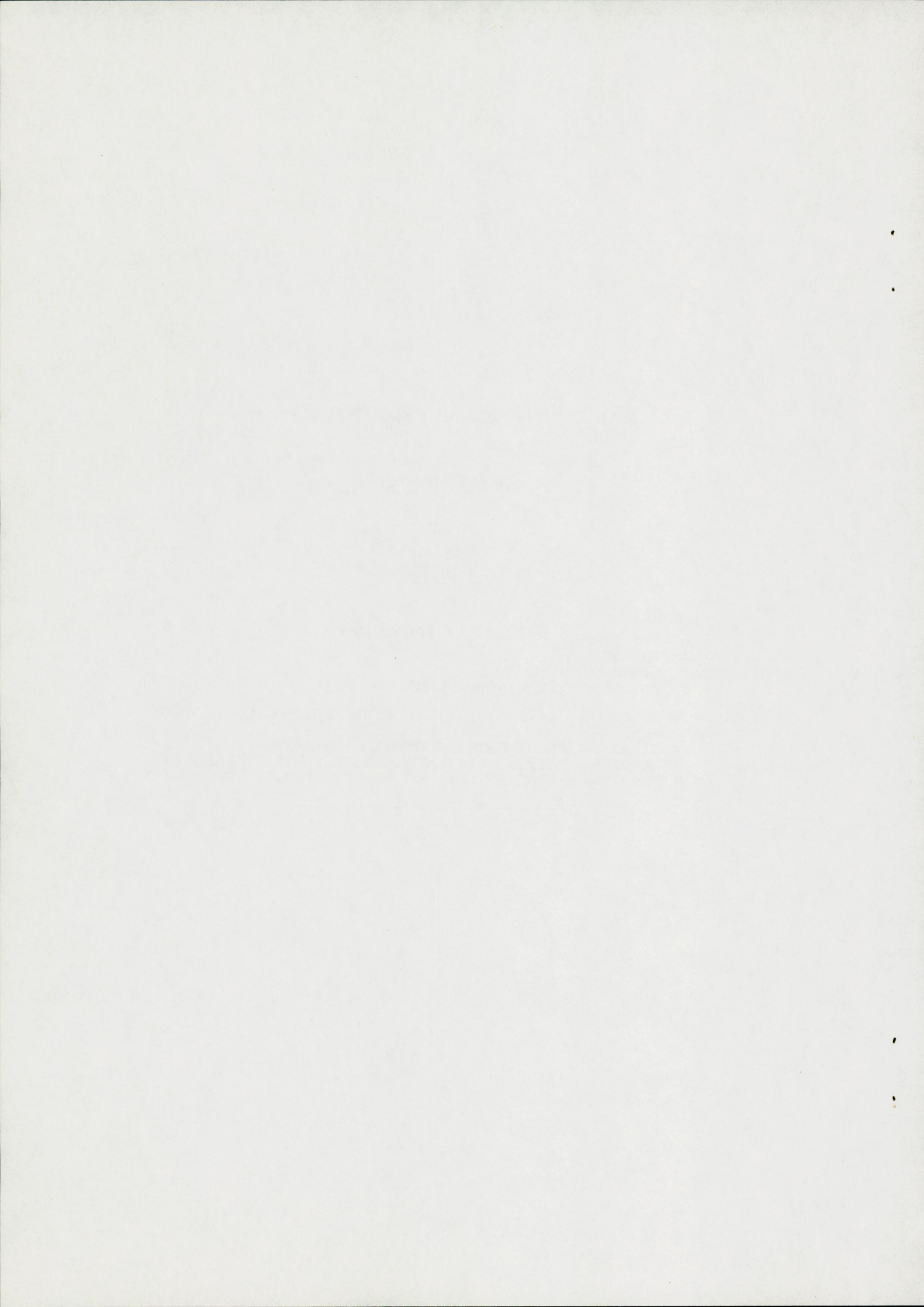
SCHEDULE 1—AMENDMENTS RELATING TO CONTROL OF FOOTROT  
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**STOCK DISEASES (AMENDMENT) BILL 1991**

NEW SOUTH WALES



No. , 1991

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**A BILL FOR**

An Act to amend the Stock Diseases Act 1923 for the purpose of eradicating or reducing the incidence of footrot and other animal diseases by providing for the temporary closure of roads, travelling stock reserves and other public places to certain kinds of walking and grazing stock; and for other purposes.

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Stock Diseases (Amendment) Act 1991.

**Commencement**

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).

(2) Sections 1 and 2, Schedule 4 and section 3, in its application to that Schedule, commence on the date of assent.

**Amendment of Stock Diseases Act 1923 No. 34**

3. The Stock Diseases Act 1923 is amended as set out in Schedules 1-4.

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**SCHEDULE 1—AMENDMENTS RELATING TO CONTROL  
OF FOOTROT ETC.**

(Sec. 3)

(1) Part 4, Division 2A:

After Division 2 of Part 4, insert:

**Division 2A—Control of footrot and other  
designated diseases**

**Definitions**

15A. In this Division:

“**designated disease**” means footrot or any other disease declared, by order made by the Governor and published in the Gazette, to be a designated disease for the purposes of this Division;

“**public place**” means any place (other than a road) that is open to the public as of right and without payment of a fee;

“**road**” means a public road, a Crown road or a quarter sessions road as respectively defined in the Crown and Other Roads Act 1990;

“**travelling stock reserve**” has the same meaning as in the Rural Lands Protection Act 1989.



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SCHEDULE 1—AMENDMENTS RELATING TO CONTROL OF  
FOOTROT ETC.—*continued*

**Power of Minister to close certain roads, travelling stock reserves and public places**

15B. (1) The Minister may, in the circumstances set out in subsection (2), make an order declaring:

- (a) all roads, travelling stock reserves and public places; or
- (b) roads, travelling stock reserves or public places of a specified class or description,

located within a prescribed area to be closed to walking and grazing stock or to walking and grazing stock of a specified class.

(2) An order under this section may be made whenever the Minister is of the opinion that all or some of the walking or grazing stock referred to in subsection (1) may be infected with a designated disease and could, if allowed to walk over or graze on the roads, travelling stock reserves or public places, or roads, travelling stock reserves or public places of a specified class or description, located within a prescribed area:

- (a) cause those roads, reserves or places to become infected with the disease; or
- (b) cause other stock within the area to become infected with the disease; or
- (c) where holdings, roads, travelling stock reserves and public places within the area are currently not infected with the disease—expose those holdings, roads, reserves and places to the disease.

(3) In making such an order, the Minister may, in specified circumstances or subject to specified conditions, exempt stock or stock of a specified class from the operation of the order.

(4) An order under this section may be made so as to remain in force in respect of a prescribed area for a period not exceeding 3 months from and including:

- (a) the day after its publication under subsection (5) or, if an earlier order is still in force in respect of that area at the time of publication under that subsection, the day after the day on which the earlier order expires; or
- (b) if a later day is specified in the order, that later day.

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SCHEDULE 1—AMENDMENTS RELATING TO CONTROL OF  
FOOTROT ETC.—*continued*

(5) An order made under this section must be published in an approved newspaper that circulates within the prescribed area concerned.

(6) In subsection (5), “**approved**” means approved by the Chief of the Division of Animal Health.

(7) The owner of stock to which an order made under this section applies and the person in charge of the stock (if not their owner) must, unless exempted by a provision of the order or unless subsection (8) applies, each ensure that the stock do not walk over or graze on a road, travelling stock reserve or public place that the order declares to be closed.

(8) If the boundary between a holding and a road or travelling stock reserve has never been fenced, a person who owns or is in charge of stock that are kept on the holding does not fail to comply with subsection (7) merely because the person has failed to ensure that the stock have not walked over or grazed on the road or reserve.

(9) Subsection (8) applies only if the stock concerned are free of the designated disease and the holding and the part of the road or travelling stock reserve adjoining the holding are not within a quarantine area.

**Effect of closure orders**

15C. (1) While a closure order under section 15B is in force, all walking stock permits, grazing permits, stock licences and stock holding authorities are suspended as regards the walking or grazing of stock to which the order applies over or on the roads and travelling stock reserves that are affected by the order, except to the extent specified in the order.

(2) In this section, “**walking stock permit**”, “**grazing permit**”, “**stock licence**” and “**stock holding authority**” have the same meanings as in the Rural Lands Protection Act 1989.

(2) Section 20H (Compliance with proclamations, orders, undertakings etc.)

After section 20H (1) (c), insert:

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SCHEDULE 1—AMENDMENTS RELATING TO CONTROL OF  
FOOTROT ETC.—*continued*

- (c1) contravene a condition subject to which the person is, or any stock belonging to the person or in the person's charge are, exempt from the operation of an order made under this Act; or

SCHEDULE 2—AMENDMENTS RELATING TO OFFENCES

(Sec. 3)

(1) Section 20J (**Supplying false etc. information**):

At the end of the section, insert:

(2) A person must not, in the course of or in connection with selling stock, make a statement to the effect:

- (a) that the stock are free from disease or from a specified disease; or
- (b) that the stock have not been on land that is infected with disease or with a specified disease; or
- (c) where the person is not the owner or person in charge of the stock—that the owner or person in charge of the stock has certified or stated that the stock are free from disease or from a specified disease,

if the person either knows that the statement is false or misleading with respect to a material particular or is recklessly indifferent as to the truth or falsity of the statement with respect to such a particular.

Maximum penalty: 100 penalty units.

(2) Sections 20N and 20O:

After section 20M, insert:

**Offences by officers of corporations**

20N. (1) If a corporation contravenes a provision of this Act or the regulations, each officer of the corporation is taken to have contravened the provision if the officer knowingly authorised or permitted the contravention.

(2) An officer of a corporation may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been proceeded against or convicted under the provision.

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SCHEDULE 2—AMENDMENTS RELATING TO OFFENCES—  
*continued*

(3) Nothing in this section affects a liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

(4) In this section, “**officer**”, in relation to a corporation, means a director of the corporation or a person who is otherwise concerned in its management.

**Penalty notices**

200. (1) In this section, “**prescribed offence**” means an offence against this Act or the regulations that is prescribed by the regulations for the purposes of this section.

(2) An inspector authorised under subsection (3) may serve a penalty notice on a person if it appears to the inspector that the person has committed a prescribed offence.

(3) The Chief of the Division of Animal Health may in writing authorise an inspector to exercise the power conferred by subsection (2) and may, whenever appropriate, revoke such an authorisation by notice in writing given to the inspector.

(4) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay, within the period and to the person specified in the notice, the amount of penalty prescribed by the regulations for the offence if dealt with under this section.

(5) A penalty notice may be served personally or by post.

(6) If the amount of penalty prescribed for an alleged offence is paid in accordance with a penalty notice, no person is liable to further proceedings for the alleged offence.

(7) Payment under this section is not to be regarded as an admission of liability for the purpose of, and is not in any way to affect or prejudice, any civil proceeding arising out of the same occurrence.

(8) The regulations may do all or any of the following:

- (a) prescribe an offence for the purposes of this section by specifying the offence or referring to the provision creating the offence;
- (b) prescribe the amount of penalty payable for the offence if dealt with under this section;

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SCHEDULE 2—AMENDMENTS RELATING TO OFFENCES—  
*continued*

(c) prescribe different amounts of penalties for different offences or classes of offences.

(9) The amount of a penalty prescribed under this section must not exceed the maximum amount of penalty which could be imposed for the offence by a court.

(10) This section does not limit the operation of any other provision of, or any other provision made under, this or any other Act relating to proceedings that may be taken in respect of offences.

SCHEDULE 3—AMENDMENTS RELATING TO  
ADMINISTRATIVE MATTERS

(Sec. 3)

(1) Section 8 (**Further powers of inspectors**):

From section 8 (1) (c1), omit “in or to the effect of the form prescribed”, insert instead “in a form prescribed by the Chief of the Division of Animal Health”.

(2) Section 9 (**Occupier etc. to give notice**):

From section 9 (3), omit “shall be in or to the effect of the prescribed form and”.

(3) Section 11 (**Undertaking in certain cases**):

From section 11 (1), omit “in the prescribed form”, insert instead “in a form acceptable to the Minister”.

(4) Section 13 (**Power to order fencing**):

From section 13 (2), omit “in the prescribed manner”, insert instead “, by notice in writing,”.

(5) Section 16 (**Musters**):

(a) From section 16 (1), omit “the prescribed brand”, insert instead “an approved brand”.

(b) From section 16 (2)–(4), omit “the prescribed brand” wherever occurring, insert instead “the appropriate approved brand”.

(c) After section 16 (4), insert:

(5) In this section, “**approved**” means approved by the Chief of the Division of Animal Health.

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SCHEDULE 3—AMENDMENTS RELATING TO  
ADMINISTRATIVE MATTERS—*continued*

(6) Section 17 (**Power to order destruction**):

(a) From section 17 (1), omit “the same in the manner prescribed, or to dispose of the same”, insert instead “or dispose of the stock, carcass, produce, fodder or article”.

(b) Omit section 17 (2) (d), insert instead:

(d) The inspector may act under any such authority only if the Minister or some member of the Executive Council has certified the grant of the authority either in writing or by means of an electronically recorded message.

(7) Section 19A (**Identification of certain cattle, swine and other stock**):

Omit section 19A (4), insert instead:

(4) Subsection (3) does not apply to a person or class of persons exempted by the regulations, but only if the person complies, or persons of that class comply, with the requirements (if any) of the regulations relating to:

(a) the sale of the cattle, swine or other stock concerned;  
or

(b) the sending or delivering of the cattle, swine or other stock concerned to an abattoir for slaughter or to a saleyard or any other place for sale,

as the case may be.

(5) The provisions of section 3 (b) and (c) (ii) do not apply to the sending or delivering of cattle or other stock (not being swine to which this section applies) to an abattoir for slaughter if the cattle or other stock are sent or delivered for slaughter within 7 days after being purchased in New South Wales.

(8) Section 19B (**Licence to keep stock**):

Omit the section.

(9) Section 19F (**Authority for the manufacture of tags**):

(a) In section 19F (1), after “in possession of an order”, insert “in writing”.

(b) From section 19F (1) (a), omit “in or to the effect of the prescribed form”.

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SCHEDULE 3—AMENDMENTS RELATING TO  
ADMINISTRATIVE MATTERS—*continued*

- (10) Section 23 (**Power to make regulations**):  
Omit section 23 (1) (z).

SCHEDULE 4—AMENDMENTS BY WAY OF  
STATUTE LAW REVISION

(Sec. 3)

- (1) Section 3 (**Definitions**):
- (a) From the definition of “Holding” in section 3 (1), omit “section 39 of the Pastures Protection Act 1934”, insert instead “section 57 of the Rural Lands Protection Act 1989”.
  - (b) From the definition of “Veterinary surgeon” in section 3 (1), omit “1923”, insert instead “1986”.
- (2) Sections 3, 3A, 6, 9, 21B:  
In sections 3 (1), 3A, 6 (4), 9 (3) (c) and 21B, after “Agriculture” wherever occurring, insert “and Fisheries”.
- (3) Section 6A (**Police officers may exercise the powers of inspectors**) and section 19 (**Power to seize stock**):  
From sections 6A and 19, omit “member of the police force” wherever occurring, insert instead “police officer”.
- (4) Section 7 (**Powers of inspectors**):  
From section 7 (4), omit “regional veterinary officer of the Department of Agriculture”, insert instead “Regional Director of Veterinary Services”.
- (5) Section 8 (**Further powers of inspectors**):
- (a) From section 8 (1) (b), omit “the owner, person, or occupier as aforesaid”, insert instead “that owner, person or occupier”.
  - (b) From section 8 (1) (b), omit “the owner, person or occupier as aforesaid,”, insert instead “that owner, person or occupier”.
  - (c) From section 8 (2), omit “mutatis mutandis”, insert instead “with appropriate modifications”.

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SCHEDULE 4—AMENDMENTS BY WAY OF STATUTE LAW  
REVISION—*continued*

(6) Section 8B (**Suspected person to give name and place of residence**):

(a) From section 8B (1), omit “abode”, insert instead “residence”.

(b) Omit section 8B (2), insert instead:

(2) A person who, in response to a demand made under this section:

(a) fails to state the person’s name or place of residence;  
or

(b) states a name or place of residence that is false or misleading,

is guilty of an offence.

Maximum penalty: 100 penalty units.

(7) Section 8C (**Personation of inspector**):

Omit “shall be deemed to have contravened the provisions of this Act”, insert instead:

is guilty of an offence.

Maximum penalty: 100 penalty units.

(8) Section 9 (**Occupier etc. to give notice**):

(a) From section 9 (3) (a), omit “the pastures protection board, within the meaning of the Pastures Protection Act 1934, for the pastures protection district”, insert instead “the rural lands protection board for the rural lands protection district”.

(b) Omit section 9 (3) (b), insert instead:

(b) the district veterinarian for that district;

(c) From section 9 (3) (c), omit “regional veterinary officer of the Department of Agriculture”, insert instead “Regional Director of Veterinary Services”.

(d) From section 9 (3A), omit “Pastures Protection Act 1934”, insert instead “Rural Lands Protection Act 1989”.

(e) From section 9 (4), omit “veterinary inspector”, insert instead “district veterinarian”.



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SCHEDULE 4—AMENDMENTS BY WAY OF STATUTE LAW  
REVISION—*continued*

- (f) From section 9 (6), omit “was committed”, insert instead “is alleged to have been committed”.
- (9) Section 12A (**Powers of inspectors to stop, enter and search vehicles etc.**):  
From section 12A (5), omit “shall be deemed to have contravened the provisions of this Act.”, insert instead:  
is guilty of an offence.  
Maximum penalty: 100 penalty units.
- (10) Section 13 (**Power to order fencing**):  
From section 13 (4), omit “1902”, insert instead “1951”.
- (11) Section 17B (**Foot and Mouth Disease Eradication Fund**):
- (a) In section 17B (1) (a), after “State”, insert “or any Territory”.
  - (b) In section 17B (1) (a), after “other States”, insert “, such Territories”.
  - (c) In section 17B (3), after “the other States”, insert “, the Territories”.
  - (d) In section 17B (3), after “those other States”, insert “, those Territories”.
  - (e) From section 17B (4), omit “Revenue”.
- (12) Section 17E (**Claims**):  
From section 17E (2) (c), omit “of the Parliament”.
- (13) Section 17G (**Mode of valuation**):  
From section 17G (1) (c), omit “section 31”, insert instead “section 18F”.
- (14) Section 20C (**Movement of stock**):  
From section 20C (2) (c), omit “Pastures Protection Act 1934”, insert instead “Rural Lands Protection Act 1989”.
- (15) Section 20E (**Infected carcass not to be left near road, river etc.**):  
Omit “carcase” wherever occurring, insert instead “carcass”.
- (16) Section 23 (**Power to make regulations**):  
From section 23 (1) (f), omit “carcases”, insert instead “carcasses”.

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SCHEDULE 4—AMENDMENTS BY WAY OF STATUTE LAW  
REVISION—*continued*

(17) Schedule 1, clause 7 (**Effect of certain other Acts**):

Omit clause 7 (1), insert instead:

(1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a member of the Board.

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