

STOCK DISEASES (OFFENCES) AMENDMENT ACT 1989
No. 181

NEW SOUTH WALES



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STOCK DISEASES (OFFENCES) AMENDMENT ACT 1989
No. 181

NEW SOUTH WALES



Act No. 181, 1989

An Act to amend the Stock Diseases Act 1923 to increase penalties for offences and for other purposes. [Assented to 14 December 1989]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Stock Diseases (Offences) Amendment Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Stock Diseases Act 1923 No. 34

3. The Stock Diseases Act 1923 is amended as set out in Schedule 1.

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

(1) Section 16 (**Musters**):

In section 16 (3), omit "\$20", insert instead "1 penalty unit".

(2) Section 17I (**Fraudulent compensation claim**):

Omit "\$1,000", insert instead "100 penalty units".

(3) Part 5:

Omit the Part, insert instead:

PART 5 - OFFENCES

Introduction of stock into State contrary to proclamation

20. A person must not introduce stock into the State in contravention of a provision of a proclamation under this Act.

Maximum penalty:

- (a) 100 penalty units, unless paragraph (b) or (c) applies; or
- (b) 200 penalty units, if at the time of introduction the stock are actually diseased; or

SCHEDULE 1 - AMENDMENTS - *continued*

- (c) 1 000 penalty units or imprisonment for 6 months, or both, if at the time of introduction the stock are actually diseased and as a consequence of the introduction of the stock other stock in the State become actually diseased.

Wilful communication of disease

20A. A person must not wilfully communicate or attempt to communicate any disease to stock, except for such purposes and under such conditions as may be prescribed by the regulations.

Maximum penalty: 500 penalty units.

Sale etc. of diseased stock

20B. (1) A person must not sell, offer for sale or attempt to sell any diseased stock.

Maximum penalty: 200 penalty units.

(2) This section does not apply to the sale of stock for slaughter in compliance with an order under section 8 (1) (b).

Movement of stock

20C. (1) A person must not move any stock, or cause or permit any stock to be moved:

- (a) across a quarantine line, unless the movement is in accordance with the conditions specified in the notification declaring the quarantine line; or
- (b) into a protected area, unless the movement is in accordance with the prescribed conditions; or
- (c) otherwise in contravention of a provision of this Act or the regulations.

Maximum penalty: 100 penalty units.

(2) A person must not move any infected stock or cause or permit any infected stock to be moved:

SCHEDULE 1 - AMENDMENTS - *continued*

- (a) on, along or across any public road or railway; or
- (b) in or through any public place; or
- (c) to, on or across any land (including any stock saleyard, and any travelling stock reserve within the meaning of the Pastures Protection Act 1934) except on or across land owned or occupied by the owner of the stock.

Maximum penalty: 100 penalty units.

(3) This section does not apply to anything done in compliance with an order by an inspector under section 8 (1) (b).

Straying stock

20D. (1) If stock are found straying within a quarantine area or protected area, the owner of the stock and the person from whose charge the stock strayed are both guilty of an offence.

(2) If infected stock are found straying anywhere, the owner of the stock and the person from whose charge the stock strayed are both guilty of an offence.

Maximum penalty: 100 penalty units.

(3) It is a defence to a prosecution for an offence against this section if the defendant proves that all reasonable precautions were taken to prevent the stock from straying.

Infected carcase not to be left near road, river etc.

20E. A person must not leave the carcase of any infected stock, or cause or permit the carcase of any infected stock to be left:

- (a) on, in, or within 1 kilometre of, a public road or public place; or

SCHEDULE 1 - AMENDMENTS - *continued*

(b) in a river, creek or water-hole.

Maximum penalty: 100 penalty units.

Interfering with a quarantine fence or gate

20F. A person must not break down, damage or leave open a fence, gate or fastening:

- (a) that is used for confining stock, or regulating or preventing the movement of stock; and
- (b) that provides access to, or is within, a quarantine area or protected area.

Maximum penalty: 100 penalty units.

Tags, brands

20G. (1) A person must not alter or deface any tag which is attached, or which is intended to be attached, to stock for the purposes of this Act.

(2) A person must not, unless the person is an inspector under this Act or under the Meat Industry Act 1978, remove a tag or cause a tag to be removed:

- (a) from any cattle or other stock (not including swine) to which section 19A applies that are being moved to or from any saleyard or place where the stock are to be kept for the purposes of sale or to an abattoir; or
- (b) from any stock (not including swine) that are being offered for sale or that have been sold during the immediately preceding 28 days.

(3) A person must not alter or deface a brand applied to stock under or for the purposes of this Act or the regulations unless the person is an inspector or does so with the authority of an inspector.

Maximum penalty: 100 penalty units.

SCHEDULE 1 - AMENDMENTS - *continued*

Compliance with proclamations, orders, undertakings etc.

20H. (1) A person must not:

- (a) contravene a provision of a proclamation, order or notification issued or made under this Act; or
- (b) contravene the terms of an order or notice served on or given to the person under this Act; or
- (c) contravene the terms and conditions of an undertaking with which the person is required to comply under section 11; or
- (d) do anything that is declared by a provision of this Act to be a contravention of this Act.

Maximum penalty: 100 penalty units.

(2) This section does not apply to any act or omission that is an offence under section 20.

Obstruction etc. of inspector

20I. (1) A person must not obstruct, hinder, threaten or assault an inspector, or any person assisting an inspector, when the inspector is performing duties or exercising powers under this Act.

Maximum penalty: 100 penalty units.

(2) Except with lawful authority, a person must not make any payment or give any gratuity or present to an inspector in consideration of any act or omission relating to the inspector's office or employment.

Maximum penalty: 100 penalty units.

SCHEDULE 1 - AMENDMENTS - *continued*

Supplying false etc. information

20J. A person must not, in submitting an application or otherwise giving information for the purposes of this Act, give information to the Minister or a person engaged in the administration of this Act, knowing the information is false or misleading in a material particular.

Maximum penalty: 100 penalty units.

Additional penalty of imprisonment in certain cases

20K. (1) The court before which a person is convicted of an offence under this Part may, in addition to or instead of any other penalty that it may impose for the offence, impose a penalty not exceeding 6 months imprisonment if the offence:

- (a) arises out of any act done or omitted to be done in a special quarantine area; or
- (b) is committed in relation to stock infected with a special disease; or
- (c) is committed in relation to a special disease.

(2) This section does not authorise the imposition of a penalty of imprisonment of more than 6 months for an offence punishable under section 20 (c).

Proceedings for offences

20L. (1) Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone or before the Supreme Court in its summary jurisdiction.

(2) If proceedings are brought in a Local Court, the maximum pecuniary penalty that the Local Court may impose for the offence is 100 penalty units or the maximum penalty provided for the offence by this Act or the regulations, whichever is the lesser.

SCHEDULE 1 - AMENDMENTS - *continued*

Proof of matters relating to maximum penalties

20M. A matter that is relevant to the determination of the maximum penalty applicable to an offence against this Act must be established beyond reasonable doubt.

(4) Section 23 (**Power to make regulations**):

(a) Omit section 23 (3), insert instead:

(3) A regulation may create an offence for a breach of the regulations punishable by a penalty not exceeding 50 penalty units.

(b) Section 23 (3A):

Omit "\$1,000" and "3 months", insert instead "50 penalty units" and "6 months", respectively.

(c) Section 23 (4):

Omit the subsection.

[*Minister's second reading speech made in -
Legislative Assembly on 14 November 1989
Legislative Council on 22 November 1989*]













FIRST PRINT

STOCK DISEASES (OFFENCES) AMENDMENT BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

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

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

- (a) to increase the penalties for offences under the Act and the regulations; and
- (b) to re-enact the major offences under the Act to simplify and clarify their expression; and
- (c) to enable proceedings for offences to be brought in the Supreme Court in its summary jurisdiction (as an alternative to a Local Court) and to limit to \$10,000 the penalty that may be imposed by a Local Court for an offence.

Clause 1 specifies the short title of the proposed Act.

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

Clause 3 is a formal provision which gives effect to the Schedule of amendments.

SCHEDULE 1 - AMENDMENTS

Schedule 1 (1) increases the maximum penalty for owning unbranded stock from \$20 to 1 penalty unit (\$100) per head of stock.

Schedule 1 (2) increases the penalty for fraudulent claims for compensation from the Foot and Mouth Disease Eradication Fund from \$1,000 to 100 penalty units (\$10,000). Up to 6 months imprisonment is retained as an optional or additional penalty.

Schedule 1 (3) substitutes Part 5 (proposed sections 20 - 20M) of the Act to increase penalties, express offences more plainly and enable proceedings for offences to be taken in the Supreme Court (as an alternative to a Local Court as at present):

Stock Diseases (Offences) Amendment 1989

Proposed section 20 increases the maximum penalty for introducing stock into the State in contravention of a proclamation from \$2,000 to 100 penalty units (\$10,000). If in a particular case the stock introduced are actually diseased, the maximum penalty will be 200 penalty units (\$20,000). If introduction of the stock results in other stock becoming diseased, the maximum penalty will be 1 000 penalty units (\$100,000) or 6 months imprisonment, or both.

Proposed section 20A increases the maximum penalty for wilful communication or attempted communication of disease to stock from \$2,000 to 500 penalty units (\$50,000).

Proposed section 20B increases the maximum penalty for selling or attempting to sell diseased stock from \$2,000 to 200 penalty units (\$20,000).

Proposed sections 20C - 20J increase the maximum penalty for other offences from \$2,000 to 100 penalty units (\$10,000).

For all offences, the possibility of up to 6 months imprisonment as an additional or alternative penalty where a special quarantine area or special area is involved is retained (proposed section 20K).

Proposed section 20L authorises proceedings for offences to be taken in the Supreme Court in its summary jurisdiction (as an alternative to a Local Court) and limits to 100 penalty units (\$10,000) the penalty that may be imposed if proceedings are taken in a Local Court.

Proposed section 20M makes it clear that, if the circumstances of an offence can lead to an increased penalty, the existence of those circumstances must be proved beyond reasonable doubt.

Schedule 1 (4) increases the maximum penalty that may be provided for a breach of a regulation from \$1,000 to 50 penalty units (\$5,000). Provisions for daily penalties and fixed minimum penalties have been omitted. The additional term of imprisonment which may be imposed by the regulations if a breach arises from an act or omission involving a special quarantine area or special disease is increased from 3 to 6 months.

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STOCK DISEASES (OFFENCES) AMENDMENT BILL 1989

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act to amend the Stock Diseases Act 1923 to increase penalties for offences and for other purposes.

Stock Diseases (Offences) Amendment 1989

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Short title

1. This Act may be cited as the Stock Diseases (Offences) Amendment Act 1989.

Commencement

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3. The Stock Diseases Act 1923 is amended as set out in Schedule 1.

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

(1) Section 16 (**Musters**):

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Omit "\$1,000", insert instead "100 penalty units".

(3) Part 5:

Omit the Part, insert instead:

PART 5 - OFFENCES

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20. A person must not introduce stock into the State in contravention of a provision of a proclamation under this Act.

Maximum penalty:

- (a) 100 penalty units, unless paragraph (b) or (c) applies; or
- (b) 200 penalty units, if at the time of introduction the stock are actually diseased; or

SCHEDULE 1 - AMENDMENTS - *continued*

- (c) 1 000 penalty units or imprisonment for 6 months, or both, if at the time of introduction the stock are actually diseased and as a consequence of the introduction of the stock other stock in the State become actually diseased.

Wilful communication of disease

20A. A person must not wilfully communicate or attempt to communicate any disease to stock, except for such purposes and under such conditions as may be prescribed by the regulations.

Maximum penalty: 500 penalty units.

Sale etc. of diseased stock

20B. (1) A person must not sell, offer for sale or attempt to sell any diseased stock.

Maximum penalty: 200 penalty units.

(2) This section does not apply to the sale of stock for slaughter in compliance with an order under section 8 (1) (b).

Movement of stock

20C. (1) A person must not move any stock, or cause or permit any stock to be moved:

- (a) across a quarantine line, unless the movement is in accordance with the conditions specified in the notification declaring the quarantine line; or
- (b) into a protected area, unless the movement is in accordance with the prescribed conditions; or
- (c) otherwise in contravention of a provision of this Act or the regulations.

Maximum penalty: 100 penalty units.

(2) A person must not move any infected stock or cause or permit any infected stock to be moved:

SCHEDULE 1 - AMENDMENTS - *continued*

- (a) on, along or across any public road or railway, or
- (b) in or through any public place; or
- (c) to, on or across any land (including any stock saleyard, and any travelling stock reserve within the meaning of the Pastures Protection Act 1934) except on or across land owned or occupied by the owner of the stock.

Maximum penalty: 100 penalty units.

(3) This section does not apply to anything done in compliance with an order by an inspector under section 8 (1) (b).

Straying stock

20D. (1) If stock are found straying within a quarantine area or protected area, the owner of the stock and the person from whose charge the stock strayed are both guilty of an offence.

(2) If infected stock are found straying anywhere, the owner of the stock and the person from whose charge the stock strayed are both guilty of an offence.

Maximum penalty: 100 penalty units.

(3) It is a defence to a prosecution for an offence against this section if the defendant proves that all reasonable precautions were taken to prevent the stock from straying.

Infected carcass not to be left near road, river etc.

20E. A person must not leave the carcass of any infected stock, or cause or permit the carcass of any infected stock to be left:

- (a) on, in, or within 1 kilometre of, a public road or public place; or

SCHEDULE 1 - AMENDMENTS - *continued*

- (b) in a river, creek or water-hole.
Maximum penalty: 100 penalty units.

Interfering with a quarantine fence or gate

20F. A person must not break down, damage or leave open a fence, gate or fastening:

- (a) that is used for confining stock, or regulating or preventing the movement of stock; and
- (b) that provides access to, or is within, a quarantine area or protected area.

Maximum penalty: 100 penalty units.

Tags, brands

20G. (1) A person must not alter or deface any tag which is attached, or which is intended to be attached, to stock for the purposes of this Act.

(2) A person must not, unless the person is an inspector under this Act or under the Meat Industry Act 1978, remove a tag or cause a tag to be removed:

- (a) from any cattle or other stock (not including swine) to which section 19A applies that are being moved to or from any saleyard or place where the stock are to be kept for the purposes of sale or to an abattoir; or
- (b) from any stock (not including swine) that are being offered for sale or that have been sold during the immediately preceding 28 days.

(3) A person must not alter or deface a brand applied to stock under or for the purposes of this Act or the regulations unless the person is an inspector or does so with the authority of an inspector.

Maximum penalty: 100 penalty units.

SCHEDULE 1 - AMENDMENTS - *continued*

Compliance with proclamations, orders, undertakings etc.

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- (a) contravene a provision of a proclamation, order or notification issued or made under this Act; or
- (b) contravene the terms of an order or notice served on or given to the person under this Act; or
- (c) contravene the terms and conditions of an undertaking with which the person is required to comply under section 11; or
- (d) do anything that is declared by a provision of this Act to be a contravention of this Act.

Maximum penalty: 100 penalty units.

(2) This section does not apply to any act or omission that is an offence under section 20.

Obstruction etc. of inspector

20I. (1) A person must not obstruct, hinder, threaten or assault an inspector, or any person assisting an inspector, when the inspector is performing duties or exercising powers under this Act.

Maximum penalty: 100 penalty units.

(2) Except with lawful authority, a person must not make any payment or give any gratuity or present to an inspector in consideration of any act or omission relating to the inspector's office or employment.

Maximum penalty: 100 penalty units.

SCHEDULE 1 - AMENDMENTS - *continued*

Supplying false etc. information

20J. A person must not, in submitting an application or otherwise giving information for the purposes of this Act, give information to the Minister or a person engaged in the administration of this Act, knowing the information is false or misleading in a material particular.

Maximum penalty: 100 penalty units.

Additional penalty of imprisonment in certain cases

20K. (1) The court before which a person is convicted of an offence under this Part may, in addition to or instead of any other penalty that it may impose for the offence, impose a penalty not exceeding 6 months imprisonment if the offence:

- (a) arises out of any act done or omitted to be done in a special quarantine area; or
- (b) is committed in relation to stock infected with a special disease; or
- (c) is committed in relation to a special disease.

(2) This section does not authorise the imposition of a penalty of imprisonment of more than 6 months for an offence punishable under section 20 (c).

Proceedings for offences

20L. (1) Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone or before the Supreme Court in its summary jurisdiction.

(2) If proceedings are brought in a Local Court, the maximum pecuniary penalty that the Local Court may impose for the offence is 100 penalty units or the maximum penalty provided for the offence by this Act or the regulations, whichever is the lesser.

SCHEDULE 1 - AMENDMENTS - *continued*

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(a) Omit section 23 (3), insert instead:

(3) A regulation may create an offence for a breach of the regulations punishable by a penalty not exceeding 50 penalty units.

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Omit "\$1,000" and "3 months", insert instead "50 penalty units" and "6 months", respectively.

(c) Section 23 (4):

Omit the subsection.
