

STOCK FOODS AND MEDICINES (AMENDMENT) ACT 1989
No. 184

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Stock Foods and Medicines Act 1940 No. 19
4. Saving

SCHEDULE 1 - AMENDMENTS

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

PHYSICS 309

LECTURE NOTES
BY
PROFESSOR
[Name]

STOCK FOODS AND MEDICINES (AMENDMENT) ACT 1989
No. 184

NEW SOUTH WALES



Act No. 184, 1989

An Act to amend the Stock Foods and Medicines Act 1940 to remove provisions relating to stock medicines; to increase penalties for certain 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 Foods and Medicines (Amendment) Act 1989.

Commencement

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

Amendment of Stock Foods and Medicines Act 1940 No. 19

3. The Stock Foods and Medicines Act 1940 is amended as set out in Schedule 1.

Saving

4. If:

- (a) a stock food has been seized under section 21 (1) (e) of the Stock Foods and Medicines Act 1940; and
- (b) proceedings for its forfeiture are pending (or have not been commenced) under section 22 of that Act, immediately before the commencement of Schedule 1 (9),

section 22 of that Act applies in relation to the forfeiture and disposal of that seized stock food as if that section had not been repealed.

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

(1) Long title:

Omit the long title, insert instead:

An Act to regulate the sale of food for stock; and for other purposes.

SCHEDULE 1 - AMENDMENTS - *continued*

(2) Section 1 (**Short title and commencement**):

Omit section 1(1), insert instead:

(1) This Act may be cited as the Stock Foods Act 1940.

(3) Section 3 (**Definitions**):

(a) From section 3 (1), omit the definitions of "Board", "Pharmacist", "Stock medicine" and "Veterinary surgeon".

(b) Section 3 (1), definition of "Stock food":

After "stock medicine", insert "registered under the Stock Medicines Act 1989".

(c) Section 3 (1), definition of "Wholesale dealer":

Omit "or stock medicine" wherever occurring.

(d) Omit section 3 (2), insert instead:

(2) In this Act, a reference to a wholesale dealer, in respect of any registered stock food or any unregistered stock food for which an application for registration has been made, includes a reference to the applicant for registration of the stock food.

(4) Section 11 (**Offences and penalties**):

At the end of the section, insert:

Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.

(5) Part 3 (**Stock medicines**):

Omit the Part.

(6) Section 20 (**Authorisation of inspectors and analysts**):

After section 20 (3), insert:

(4) An analysis for the purposes of this Act may be carried out by a person acting under the supervision of an analyst and, in any such case, the analysis is to be taken to have been carried out by the analyst.

SCHEDULE 1 - AMENDMENTS - *continued*

- (7) Sections 21 (1) and (2), 24 (1), 25 (1) and (2), 26 (1), 27, 29, 34, 35 (2) (d) and (g):

Omit "or stock medicine" wherever occurring.

- (8) Section 21 (**Powers of inspectors**):

Omit section 21 (1) (e) and (e1), insert instead:

- (e) seize and remove any substance or article that the inspector believes on reasonable grounds to be a stock food and any container in which the substance or article is being kept or conveyed if the inspector suspects on reasonable grounds that there has been a contravention of this Act or the regulations in respect of the substance or article;

- (9) Section 22:

Omit the section, insert instead:

Retention and disposal of seized property

22. (1) In this section, "**prescribed period**", in relation to any substance, article or container seized under section 21 (1) (e), means:

- (a) the period of 6 months commencing from the time of seizure of the substance, article or container; or
(b) any other period fixed by a Local Court constituted by a Magistrate sitting alone in relation to the substance, article or container upon application by or on behalf of the Minister in the prescribed manner.

(2) During the prescribed period any substance, article or container seized under section 21 (1) (e):

- (a) may be retained; or
(b) unless during that period the substance, article or container has been forfeited to the Crown under section 26, may be returned to the person from whom it was seized.

SCHEDULE 1 - AMENDMENTS - *continued*

(3) At the expiration of the prescribed period, a substance, article or container seized under section 21 (1) (e) is to be returned to the person from whom it was seized, or to the person who appears to the Director-General to be its owner, unless:

- (a) it was, during that period, forfeited to the Crown under section 26; or
- (b) the Director-General causes a notice to be advertised in the prescribed manner before the expiration of the prescribed period to the effect that application will be made on a specified day that occurs after the expiration of the prescribed period for forfeiture to the Crown of the substance, article or container.

(4) Where a notice is advertised under subsection (3), the substance, article or container to which the advertisement relates, as soon as practicable after the day specified in the advertisement, is to be returned to the person from whom it was seized, or to the person who appears to the Director-General to be the owner, unless the substance, article or container is forfeited to the Crown.

(10) Section 23 (**Tampering with samples**):

At the end of section 23, insert:

Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.

(11) Sections 26 (2), 35 (2) (b), (b1):

Omit "and stock medicines" wherever occurring.

(12) Section 28 (**Offence of obstructing inspectors**):

At the end of the section, insert:

Maximum penalty: 50 penalty units.

SCHEDULE 1 - AMENDMENTS - *continued*

- (13) Section 29 (**Interference with official marks or seals**):
At the end of the section, insert:
Maximum penalty: 50 penalty units.
- (14) Section 30 (**Retaking of seized stock foods etc.**):
At the end of the section, insert:
Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.
- (15) Section 31 (**Penalty for offences**):
Omit "\$1,000", insert instead "50 penalty units".
- (16) Section 32 (**Recovery of penalties**):
At the end of the section, insert:
(2) Proceedings for an offence against this Act or the regulations may be commenced by information laid within 12 months after the time when the offence is alleged to have been committed.
- (17) Section 35 (**Regulations**):
(a) From section 35 (2) (b2), (b3), (b4), omit "or stock medicines" wherever occurring.
(b) From section 35 (2) (c), omit "or a stock medicine".
- (18) Section 36 (**Refund of fees**):
From section 36 (b), omit "or of a stock medicine".

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

FIRST PRINT

STOCK FOODS AND MEDICINES (AMENDMENT) BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Stock Medicines Bill 1989.

The objects of this Bill are:

- (a) to repeal provisions of the Stock Foods and Medicines Act 1940 relating to stock medicines as a consequence of the proposed enactment of the Stock Medicines Act 1989; and
- (b) to increase penalties for certain offences relating to stock foods in the Stock Foods and Medicines Act 1940; and
- (c) to confer additional powers on inspectors under that Act.

Clause 1 specifies the short title of the proposed Act.

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

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Stock Foods and Medicines Act 1940.

Clause 4 is a savings provision that continues the effect of the present section 22 of the Stock Foods and Medicines Act 1940 (substituted by Schedule 1 (9)) in relation to stock food unfit for consumption that has been seized under section 21. Currently, section 22 provides for forfeiture to the Crown and destruction of any such stock food.

SCHEDULE 1 - AMENDMENTS

Powers of inspectors

Schedule 1 (8) repeals paragraphs (e) and (e1) of section 21 (1) of the Stock Foods and Medicines Act 1940 which respectively provide for the seizure by inspectors of stock foods and stock medicines unfit for use. Instead, the proposed section 21 (1) (e) will provide for seizure of any stock food or container of a stock food that an inspector reasonably believes to have been involved in an offence against the Act.

Forfeiture of seized stock food

Schedule 1 (9) substitutes section 22 (retention and disposal of seized property). The proposed section 22 provides for the retention and disposal of property seized by an inspector under proposed section 21 (1) (e). During the 6 month period after seizure, the property concerned may be retained or returned to the person from whom it was seized. At the end of the 6 month period, the property must be returned to its apparent owner unless it has been forfeited to the Crown or an application for its forfeiture has been advertised.

Offences

Schedule 1 (4), (10), (12), (13), (14) and (15) increase the penalties for certain offences under the Act from \$1,000 as follows:

- * selling a stock food containing an excess of foreign ingredients or a manufactured stock food that is not registered (section 11): 200 penalty units (\$20,000) or 400 penalty units (\$40,000) for a corporation;
- * tampering with samples of stock food taken for analysis (section 23): 200 penalty units or 400 penalty units for a corporation;
- * obstructing inspectors under the Act (section 28): 50 penalty units (\$5,000);
- * interference with official marks or seals attached by inspectors (section 29): 50 penalty units;
- * retaking of stock foods seized by inspectors (section 30): 200 penalty units or 400 penalty units for a corporation;
- * offences against the Act or regulations made under it, if no other penalty is expressly provided (section 31): 50 penalty units.

Schedule 1 (16) amends section 32 so as to enable proceedings for an offence against the Act to be commenced within 12 months of the alleged commission of the offence (presently, proceedings must be commenced within 6 months).

Repeal of provisions relating to stock medicines

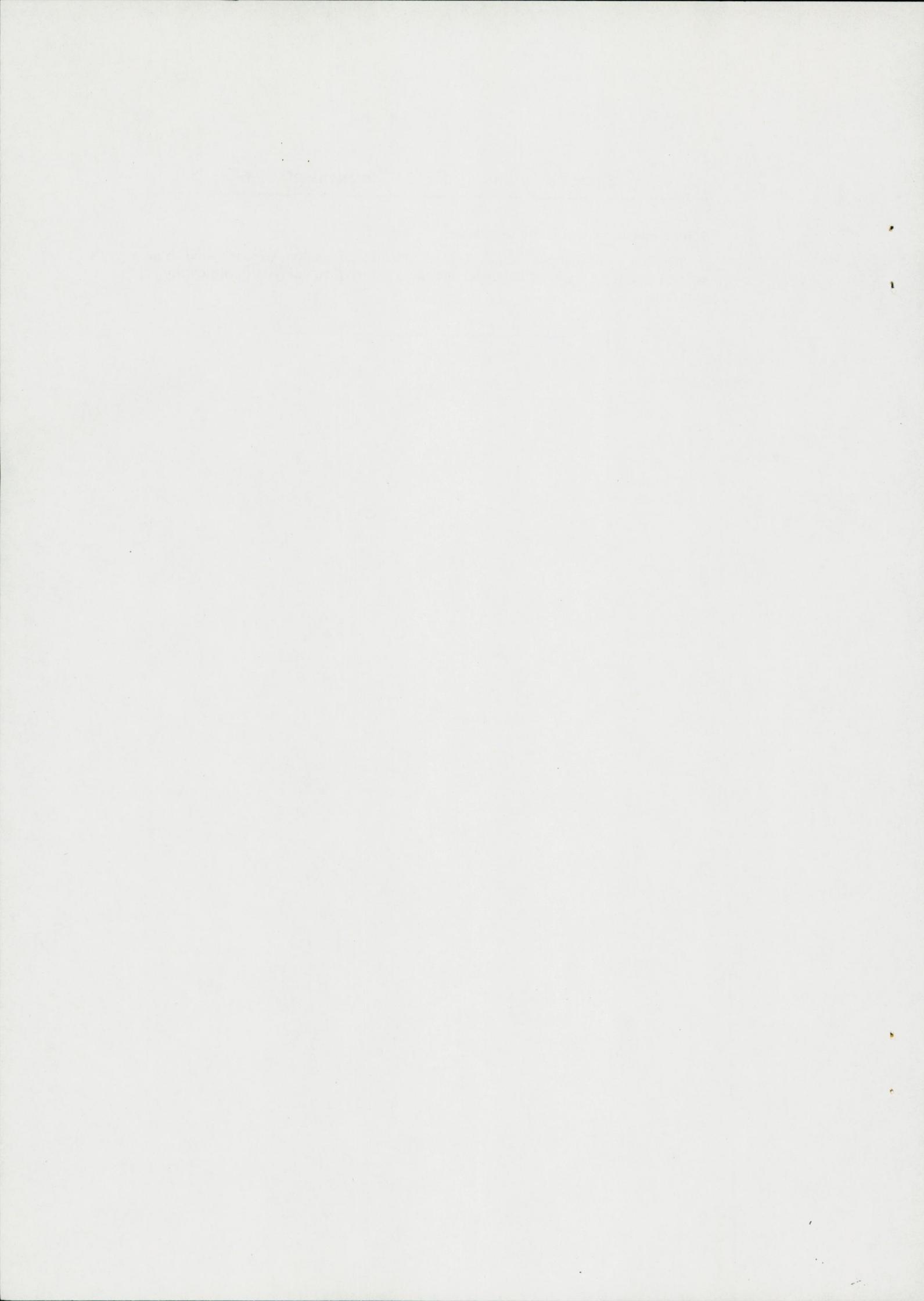
Schedule 1 (5) repeals Part 3 (relating to stock medicines) as a consequence of the proposed enactment of the Stock Medicines Act 1989.

Schedule 1 (2) amends the short title so as to reflect the repeal of all the provisions relating to stock medicines. The new short title is Stock Foods Act 1940. Other amendments consequential on the proposed repeal of Part 3 are made by Schedule 1 (1), (3), (7), (11), (17) and (18).

Stock Foods and Medicines (Amendment) 1989

Minor amendment relating to analyses

Schedule 1 (6) amends section 20 so as to enable an analysis of stock food to be carried out by a person acting under the supervision of an analyst appointed under the Act.



FIRST PRINT

STOCK FOODS AND MEDICINES (AMENDMENT) BILL 1989

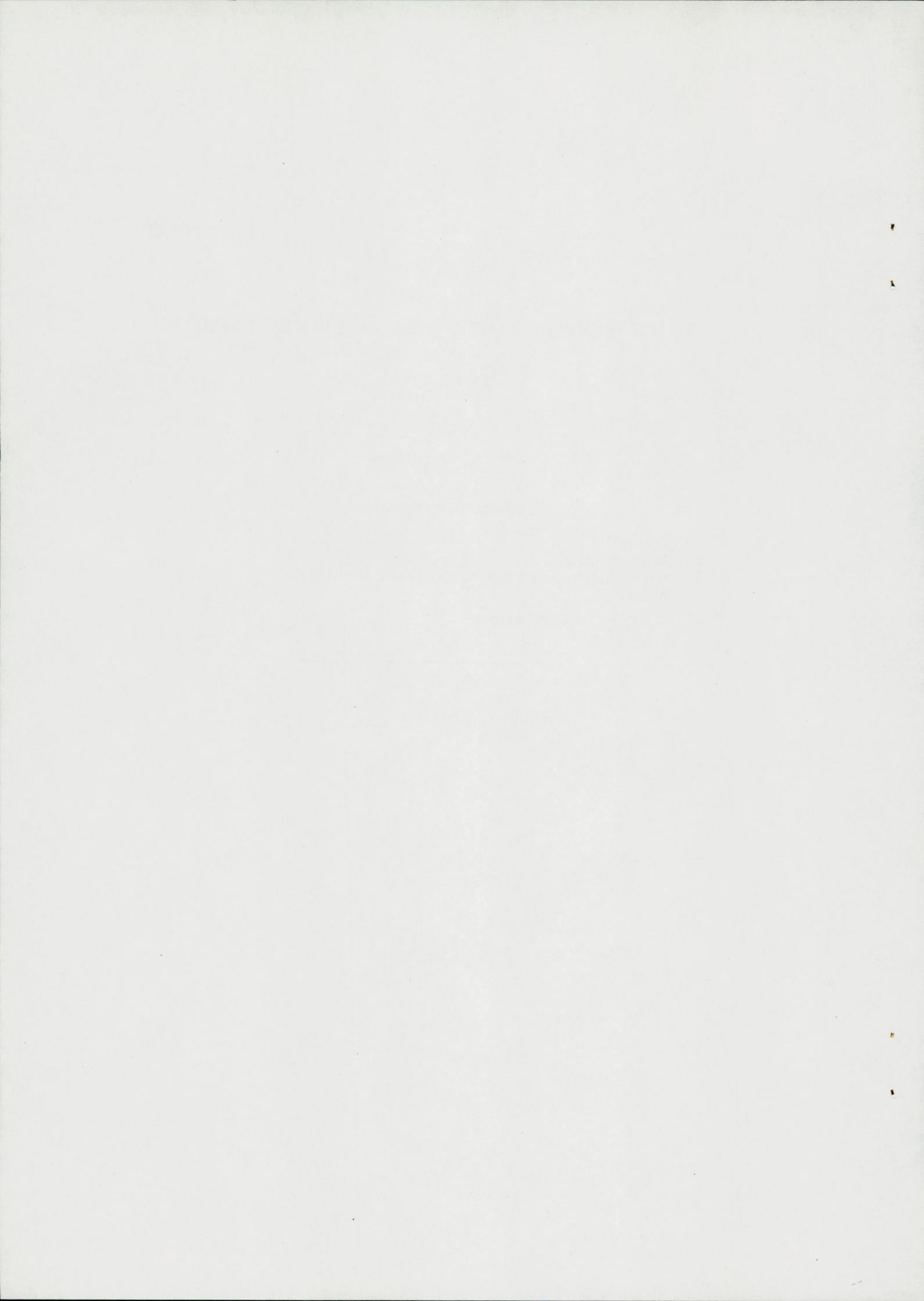
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Stock Foods and Medicines Act 1940 No. 19
4. Saving

SCHEDULE 1 - AMENDMENTS



STOCK FOODS AND MEDICINES (AMENDMENT) BILL 1989

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act to amend the Stock Foods and Medicines Act 1940 to remove provisions relating to stock medicines; to increase penalties for certain offences; and for other purposes.

Stock Foods and Medicines (Amendment) 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Stock Foods and Medicines (Amendment) Act 1989.

Commencement

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

Amendment of Stock Foods and Medicines Act 1940 No. 19

3. The Stock Foods and Medicines Act 1940 is amended as set out in Schedule 1.

Saving

4. If:

- (a) a stock food has been seized under section 21 (1) (e) of the Stock Foods and Medicines Act 1940; and
- (b) proceedings for its forfeiture are pending (or have not been commenced) under section 22 of that Act, immediately before the commencement of Schedule 1 (9),

section 22 of that Act applies in relation to the forfeiture and disposal of that seized stock food as if that section had not been repealed.

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

(1) Long title:

Omit the long title, insert instead:

An Act to regulate the sale of food for stock; and for other purposes.

SCHEDULE 1 - AMENDMENTS - *continued*

- (2) Section 1 (**Short title and commencement**):
Omit section 1(1), insert instead:
(1) This Act may be cited as the Stock Foods Act 1940.
- (3) Section 3 (**Definitions**):
- (a) From section 3 (1), omit the definitions of "Board", "Pharmacist", "Stock medicine" and "Veterinary surgeon".
- (b) Section 3 (1), definition of "Stock food":
After "stock medicine", insert "registered under the Stock Medicines Act 1989".
- (c) Section 3 (1), definition of "Wholesale dealer":
Omit "or stock medicine" wherever occurring.
- (d) Omit section 3 (2), insert instead:
(2) In this Act, a reference to a wholesale dealer, in respect of any registered stock food or any unregistered stock food for which an application for registration has been made, includes a reference to the applicant for registration of the stock food.
- (4) Section 11 (**Offences and penalties**):
At the end of the section, insert:
Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.
- (5) Part 3 (**Stock medicines**):
Omit the Part.
- (6) Section 20 (**Authorisation of inspectors and analysts**):
After section 20 (3), insert:
(4) An analysis for the purposes of this Act may be carried out by a person acting under the supervision of an analyst and, in any such case, the analysis is to be taken to have been carried out by the analyst.

SCHEDULE 1 - AMENDMENTS - *continued*

- (7) Sections 21 (1) and (2), 24 (1), 25 (1) and (2), 26 (1), 27, 29, 34, 35 (2) (d) and (g):

Omit "or stock medicine" wherever occurring.

- (8) Section 21 (**Powers of inspectors**):

Omit section 21 (1) (e) and (e1), insert instead:

- (e) seize and remove any substance or article that the inspector believes on reasonable grounds to be a stock food and any container in which the substance or article is being kept or conveyed if the inspector suspects on reasonable grounds that there has been a contravention of this Act or the regulations in respect of the substance or article;

- (9) Section 22:

Omit the section, insert instead:

Retention and disposal of seized property

22. (1) In this section, "**prescribed period**", in relation to any substance, article or container seized under section 21

(1) (e), means:

- (a) the period of 6 months commencing from the time of seizure of the substance, article or container; or
(b) any other period fixed by a Local Court constituted by a Magistrate sitting alone in relation to the substance, article or container upon application by or on behalf of the Minister in the prescribed manner.

(2) During the prescribed period any substance, article or container seized under section 21 (1) (e):

- (a) may be retained; or
(b) unless during that period the substance, article or container has been forfeited to the Crown under section 26, may be returned to the person from whom it was seized.

SCHEDULE 1 - AMENDMENTS - *continued*

(3) At the expiration of the prescribed period, a substance, article or container seized under section 21 (1) (e) is to be returned to the person from whom it was seized, or to the person who appears to the Director-General to be its owner, unless:

- (a) it was, during that period, forfeited to the Crown under section 26; or
- (b) the Director-General causes a notice to be advertised in the prescribed manner before the expiration of the prescribed period to the effect that application will be made on a specified day that occurs after the expiration of the prescribed period for forfeiture to the Crown of the substance, article or container.

(4) Where a notice is advertised under subsection (3), the substance, article or container to which the advertisement relates, as soon as practicable after the day specified in the advertisement, is to be returned to the person from whom it was seized, or to the person who appears to the Director-General to be the owner, unless the substance, article or container is forfeited to the Crown.

(10) Section 23 (**Tampering with samples**):

At the end of section 23, insert:

Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.

(11) Sections 26 (2), 35 (2) (b), (b1):

Omit "and stock medicines" wherever occurring.

(12) Section 28 (**Offence of obstructing inspectors**):

At the end of the section, insert:

Maximum penalty: 50 penalty units.

SCHEDULE 1 - AMENDMENTS - *continued*

- (13) Section 29 (**Interference with official marks or seals**):
At the end of the section, insert:
Maximum penalty: 50 penalty units.
- (14) Section 30 (**Retaking of seized stock foods etc.**):
At the end of the section, insert:
Maximum penalty: 200 penalty units or, for an offence by a corporation, 400 penalty units.
- (15) Section 31 (**Penalty for offences**):
Omit "\$1,000", insert instead "50 penalty units".
- (16) Section 32 (**Recovery of penalties**):
At the end of the section, insert:
(2) Proceedings for an offence against this Act or the regulations may be commenced by information laid within 12 months after the time when the offence is alleged to have been committed.
- (17) Section 35 (**Regulations**):
(a) From section 35 (2) (b2), (b3), (b4), omit "or stock medicines" wherever occurring.
(b) From section 35 (2) (c), omit "or a stock medicine".
- (18) Section 36 (**Refund of fees**):
From section 36 (b), omit "or of a stock medicine".
-