

FIRST PRINT

STOCK (CHEMICAL RESIDUES) AMENDMENT BILL 1993

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Stock Medicines (Amendment) Bill 1993.

The objects of this Bill are:

- (a) to extend the operation of the Stock (Chemical Residues) Act 1975 to stock that are treated with certain stock medicines or other substances that may have an adverse effect on trade; and
- (b) to create certain offences relating to false representations about the treatment with any of those medicines or substances of stock being sold; and
- (c) to add to the powers of an inspector and impose conditions on an inspector's powers of entry; and
- (d) to increase the penalties for offences.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on the date of assent.

Clause 3 amends the Stock (Chemical Residues) Act 1975 as set out in Schedules 1 and 2.

SCHEDULE 1—GENERAL AMENDMENTS

Schedule 1 (1) adds a definition of "stock medicine", giving it the same meaning as it has in the Stock Medicines Act 1989.

Schedule 1 (2) enables an inspector to require the production of records relating to the purchase, use or disposal of a substance liable to produce a residue in the body tissues or secretions of stock.

Schedule 1 (3) (proposed section 5A) sets out the conditions on which the exercise of an inspector's power of entry is to be subject.

Schedule 1 (4) inserts proposed sections 12A and 12B.

Stock (Chemical Residues) Amendment 1993

Section 12A would enable the Minister to have the provisions of the Act (except section 11) applied to a stock medicine or other substance that may have an adverse effect on trade in stock.

Section 12B would make it an offence for a seller of stock to represent that the stock have not been treated with a stock medicine, or other substance, the subject of an order under section 12A while knowing that, or not knowing whether, the stock have been so treated.

SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES

The penalties imposed by the Stock (Chemical Residues) Act 1975 when it was enacted have remained unchanged at 5 penalty units and, in one case, 10 penalty units. It is proposed to increase them to penalties similar to those imposed under the Stock Medicines Act 1989 but only the Supreme Court would be able to impose a penalty exceeding 50 penalty units.

At present, 1 penalty unit is equivalent to \$100.

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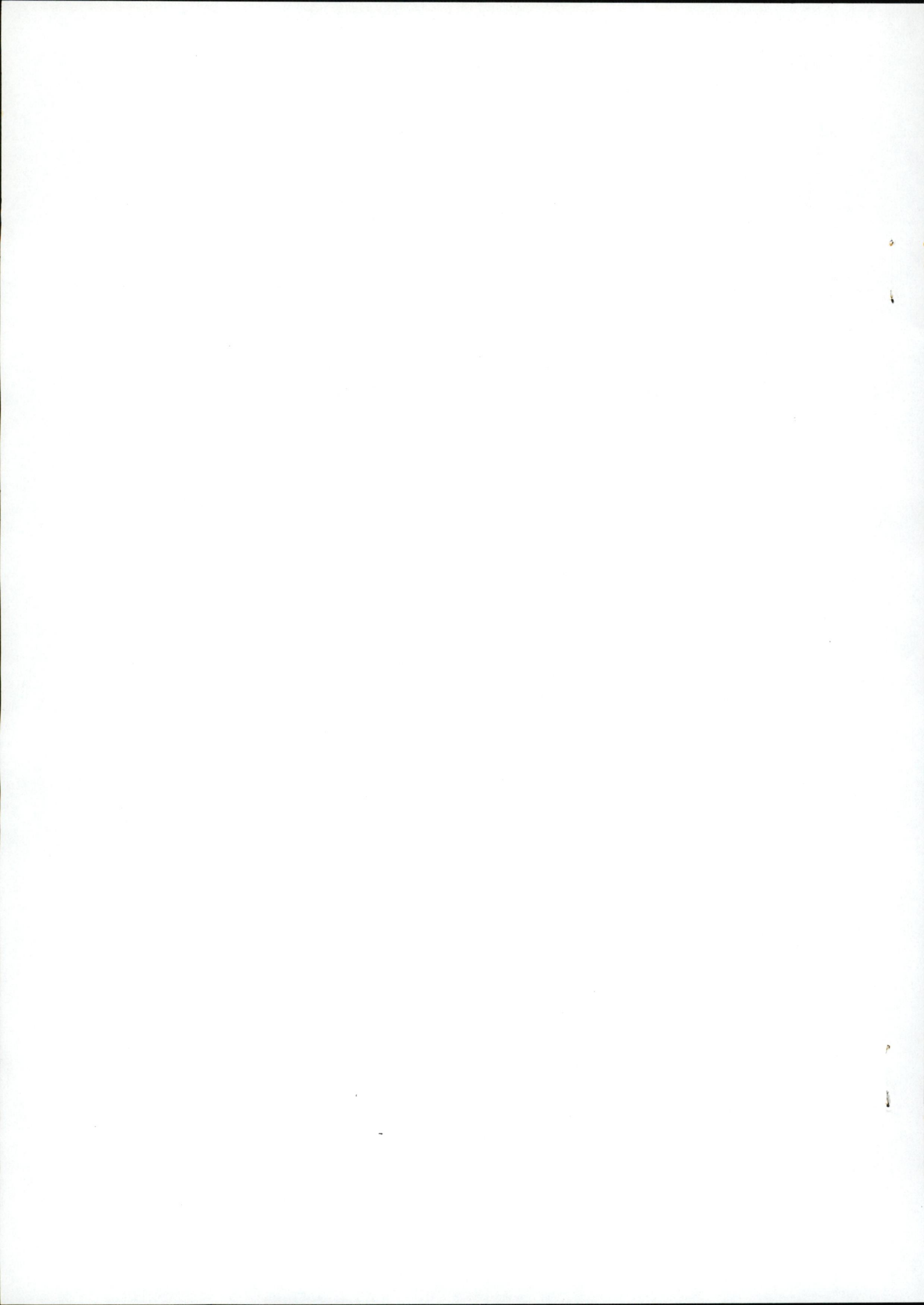


TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Stock (Chemical Residues) Act 1975 No. 26

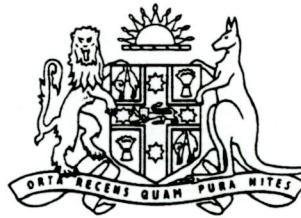
SCHEDULE 1—GENERAL AMENDMENTS

SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES



STOCK (CHEMICAL RESIDUES) AMENDMENT BILL 1993

NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to amend the Stock (Chemical Residues) Act 1975 with respect to stock treated with a stock medicine or certain other substances; to add to the provisions relating to powers of entry; to increase penalties; and for other purposes.

Stock (Chemical Residues) Amendment 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Stock (Chemical Residues) Amendment Act 1993.

5 Commencement

2. This Act commences on the date of assent.

Amendment of Stock (Chemical Residues) Act 1975 No. 26

3. The Stock (Chemical Residues) Act 1975 is amended as set out in Schedules 1 and 2.

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SCHEDULE 1—GENERAL AMENDMENTS

(Sec. 3)

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

In section 3, insert after the definition of "stock":

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"stock medicine" has the same meaning as it has in the Stock Medicines Act 1989;

(2) Section 5 (**Powers of inspectors**):

After section 5 (4), insert:

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(5) A person on land, or in a building, entered under this section by an inspector must, if required to do so by the inspector:

(a) produce any record that is in the possession, or under the control, of the person and relates to the purchase, use or disposal by the person of:

25

(i) a substance liable to produce a residue; or

(ii) a stock medicine or other substance the subject of an order in force under section 12A; and

(b) permit the inspector to inspect the record, take copies of or extracts from the record and make notes relating to the record.

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Maximum penalty: 100 penalty units.

Stock (Chemical Residues) Amendment 1993

SCHEDULE 1—GENERAL AMENDMENTS—*continued*

(3) Section 5A:

After section 5, insert:

Conditions of exercise of powers of entry

5A. (1) The power conferred on an inspector by section 5 to enter any land, building, vehicle, vessel or aeroplane may not be exercised unless the inspector: 5

- (a) has been issued by the Chief, Division of Animal Industries with a certificate of authority; and
- (b) gives reasonable notice to the occupier of the land or building, or the person in charge of the vehicle, vessel or aeroplane, unless the giving of notice would defeat the purpose for which it is intended to exercise the authority; and 10
- (c) exercises the power at a reasonable hour of the day, unless it is being exercised in an emergency; and 15
- (d) produces the certificate of authority if required to do so by a person apparently in charge of the land, building, vehicle, vessel or aeroplane; and
- (e) uses no more force than is reasonably necessary to effect the entry. 20

(2) A certificate of authority must:

- (a) state that it is issued under this Act; and
- (b) give the name of the inspector to whom it is issued; and 25
- (c) describe the nature of the powers conferred and the source of the powers; and
- (d) state the date (if any) on which it expires; and
- (e) state that the power does not authorise entry into any part of premises used for residential purposes unless the occupier consents; and 30
- (f) bear the signature of the person by whom it is issued and state the capacity in which the person is acting in issuing the certificate.

(3) An inspector may not enter any part of premises used for residential purposes unless the occupier consents. 35

Stock (Chemical Residues) Amendment 1993

SCHEDULE 1—GENERAL AMENDMENTS—*continued*

5 (4) If damage is caused by an inspector exercising a power of entry under this section, a reasonable amount of compensation is recoverable as a debt owed by the employer of the inspector to the owner of the premises or property entered, unless the exercise of the power was obstructed.

(5) This section does not apply to a power conferred by a search warrant.

10 (6) In this section:
 “**certificate of authority**” means a certificate that, to enable an inspector to exercise a power conferred by section 5, is issued to the inspector by the Chief, Division of Animal Industries.

15 (4) Sections 12A, 12B:

After section 12, insert:

Stock medicine etc. likely to have adverse effect on trade

12A. (1) If the Minister is of the opinion that the use on stock of:

- 20 (a) a specified kind of stock medicine; or
 (b) another substance of a specified kind,

would be likely to have an adverse effect on trade in stock or a product derived from stock, the Minister may publish in the Gazette an order declaring that this section applies to the stock medicine or other substance.

25 (2) The provisions of this Act (except section 11) apply to any stock that are, or may have been, treated with a stock medicine or other substance the subject of an order in force under this section in the same way as they apply to stock that are, or may be, residue affected.

30 **Representations on sale of stock after treatment**

12B. A seller of stock who represents to the buyer that the stock have not been treated with a stock medicine or other substance specified in an order in force under section 12A is guilty of an offence if the seller:

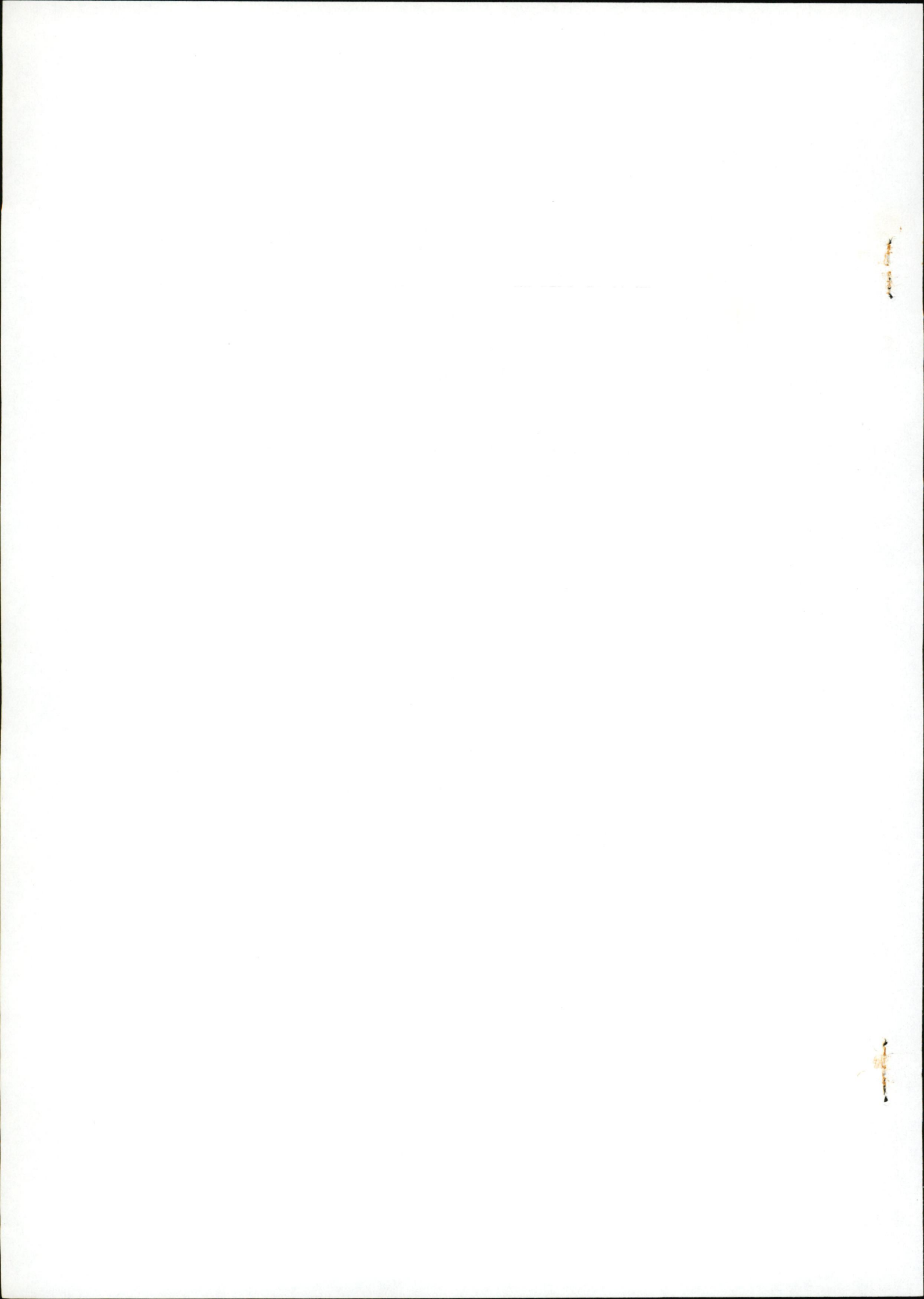
- 35 (a) knew that the stock had been treated with such a stock medicine or other substance; or
 (b) did not know whether the stock had been so treated.

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

*Stock (Chemical Residues) Amendment 1993***SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES**

(Sec. 3)

- (1) Sections 5 (2), 6 (1), 7 (4), 7A, 12 (3):
Omit “5 penalty units” wherever occurring, insert instead “100 penalty units”. 5
- (2) Section 8 (**Notice for detention of residue affected stock**):
From section 8 (5), omit “10 penalty units”, insert instead “200 penalty units or, for an offence by a corporation, 400 penalty units”.
- (3) Section 15: 10
Omit the section, insert instead:
Proceedings for offences
15. (1) Proceedings for an offence under 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. 15
(2) If proceedings for an offence are brought before a Local Court, the maximum penalty that the Court may impose is the lesser of:
(a) 50 penalty units; and 20
(b) the maximum penalty provided by this Act or the regulations for the offence.
(3) Proceedings before a Local Court for an offence under this Act must be commenced not later than 12 months after the time at which the offence is alleged to have been committed. 25
- (4) Section 16 (**Regulations**):
From section 16 (3), omit “5 penalty units”, insert instead “50 penalty units”.
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STOCK (CHEMICAL RESIDUES) AMENDMENT ACT 1993
No. 5

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Stock (Chemical Residues) Act 1975 No. 26

SCHEDULE 1—GENERAL AMENDMENTS

SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES

STOCK (CHEMICAL RESIDUES) AMENDMENT ACT 1993
No. 5

NEW SOUTH WALES



Act No. 5, 1993

An Act to amend the Stock (Chemical Residues) Act 1975 with respect to stock treated with a stock medicine or certain other substances; to add to the provisions relating to powers of entry; to increase penalties; and for other purposes. [Assented to 8 April 1993]

Stock (Chemical Residues) Amendment Act 1993 No. 5

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Stock (Chemical Residues) Amendment Act 1993.

Commencement

2. This Act commences on the date of assent.

Amendment of Stock (Chemical Residues) Act 1975 No. 26

3. The Stock (Chemical Residues) Act 1975 is amended as set out in Schedules 1 and 2.

SCHEDULE 1—GENERAL AMENDMENTS

(Sec. 3)

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

In section 3, insert after the definition of "stock":

"**stock medicine**" has the same meaning as it has in the Stock Medicines Act 1989;

(2) Section 5 (**Powers of inspectors**):

After section 5 (4), insert:

(5) A person on land, or in a building, entered under this section by an inspector must, if required to do so by the inspector:

- (a) produce any record that is in the possession, or under the control, of the person and relates to the purchase, use or disposal by the person of:
 - (i) a substance liable to produce a residue; or
 - (ii) a stock medicine or other substance the subject of an order in force under section 12A; and
- (b) permit the inspector to inspect the record, take copies of or extracts from the record and make notes relating to the record.

Maximum penalty: 100 penalty units.

SCHEDULE 1—GENERAL AMENDMENTS—*continued*

(3) Section 5A:

After section 5, insert:

Conditions of exercise of powers of entry

5A. (1) The power conferred on an inspector by section 5 to enter any land, building, vehicle, vessel or aeroplane may not be exercised unless the inspector:

- (a) has been issued by the Chief, Division of Animal Industries with a certificate of authority; and
- (b) gives reasonable notice to the occupier of the land or building, or the person in charge of the vehicle, vessel or aeroplane, unless the giving of notice would defeat the purpose for which it is intended to exercise the authority; and
- (c) exercises the power at a reasonable hour of the day, unless it is being exercised in an emergency; and
- (d) produces the certificate of authority if required to do so by a person apparently in charge of the land, building, vehicle, vessel or aeroplane; and
- (e) uses no more force than is reasonably necessary to effect the entry.

(2) A certificate of authority must:

- (a) state that it is issued under this Act; and
- (b) give the name of the inspector to whom it is issued; and
- (c) describe the nature of the powers conferred and the source of the powers; and
- (d) state the date (if any) on which it expires; and
- (e) state that the power does not authorise entry into any part of premises used for residential purposes unless the occupier consents; and

Stock (Chemical Residues) Amendment Act 1993 No. 5

SCHEDULE 1—GENERAL AMENDMENTS—*continued*

(f) bear the signature of the person by whom it is issued and state the capacity in which the person is acting in issuing the certificate.

(3) An inspector may not enter any part of premises used for residential purposes unless the occupier consents.

(4) If damage is caused by an inspector exercising a power of entry under this section, a reasonable amount of compensation is recoverable as a debt owed by the employer of the inspector to the owner of the premises or property entered, unless the exercise of the power was obstructed.

(5) This section does not apply to a power conferred by a search warrant.

(6) In this section:

“**certificate of authority**” means a certificate that, to enable an inspector to exercise a power conferred by section 5, is issued to the inspector by the Chief, Division of Animal Industries.

(4) Sections 12A, 12B:

After section 12, insert:

Stock medicine etc. likely to have adverse effect on trade

12A. (1) If the Minister is of the opinion that the use on stock of:

- (a) a specified kind of stock medicine; or
- (b) another substance of a specified kind,

would be likely to have an adverse effect on trade in stock or a product derived from stock, the Minister may publish in the Gazette an order declaring that this section applies to the stock medicine or other substance.

(2) The provisions of this Act (except section 11) apply to any stock that are, or may have been, treated with a stock medicine or other substance the subject of an order in force under this section in the same way as they apply to stock that are, or may be, residue affected.

Stock (Chemical Residues) Amendment Act 1993 No. 5

SCHEDULE 1—GENERAL AMENDMENTS—*continued*

Representations on sale of stock after treatment

12B. A seller of stock who represents to the buyer that the stock have not been treated with a stock medicine or other substance specified in an order in force under section 12A is guilty of an offence if the seller:

- (a) knew that the stock had been treated with such a stock medicine or other substance; or
- (b) did not know whether the stock had been so treated.

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

SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES

(Sec. 3)

- (1) Sections 5 (2), 6 (1), 7 (4), 7A, 12 (3):

Omit “5 penalty units” wherever occurring, insert instead “100 penalty units”.

- (2) Section 8 (**Notice for detention of residue affected stock**):

From section 8 (5), omit “10 penalty units”, insert instead “200 penalty units or, for an offence by a corporation, 400 penalty units”.

- (3) Section 15:

Omit the section, insert instead:

Proceedings for offences

15. (1) Proceedings for an offence under 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 for an offence are brought before a Local Court, the maximum penalty that the Court may impose is the lesser of:

- (a) 50 penalty units; and
- (b) the maximum penalty provided by this Act or the regulations for the offence.

Stock (Chemical Residues) Amendment Act 1993 No. 5

SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES—
continued

(3) Proceedings before a Local Court for an offence under this Act must be commenced not later than 12 months after the time at which the offence is alleged to have been committed.

(4) Section 16 (**Regulations**):

From section 16 (3), omit “5 penalty units”, insert instead “50 penalty units”.

[*Minister's second reading speech made in—
Legislative Assembly on 11 March 1993
Legislative Council on 31 March 1993*]

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No. 5

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In section 3, insert after the definition of "stock":

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(2) Section 5 (**Powers of inspectors**):

After section 5 (4), insert:

(5) A person on land, or in a building, entered under this section by an inspector must, if required to do so by the inspector:

- (a) produce any record that is in the possession, or under the control, of the person and relates to the purchase, use or disposal by the person of:
 - (i) a substance liable to produce a residue; or
 - (ii) a stock medicine or other substance the subject of an order in force under section 12A; and
- (b) permit the inspector to inspect the record, take copies of or extracts from the record and make notes relating to the record.

Maximum penalty: 100 penalty units.

SCHEDULE 1—GENERAL AMENDMENTS—*continued*

(3) Section 5A:

After section 5, insert:

Conditions of exercise of powers of entry

5A. (1) The power conferred on an inspector by section 5 to enter any land, building, vehicle, vessel or aeroplane may not be exercised unless the inspector:

- (a) has been issued by the Chief, Division of Animal Industries with a certificate of authority; and
- (b) gives reasonable notice to the occupier of the land or building, or the person in charge of the vehicle, vessel or aeroplane, unless the giving of notice would defeat the purpose for which it is intended to exercise the authority; and
- (c) exercises the power at a reasonable hour of the day, unless it is being exercised in an emergency; and
- (d) produces the certificate of authority if required to do so by a person apparently in charge of the land, building, vehicle, vessel or aeroplane; and
- (e) uses no more force than is reasonably necessary to effect the entry.

(2) A certificate of authority must:

- (a) state that it is issued under this Act; and
- (b) give the name of the inspector to whom it is issued; and
- (c) describe the nature of the powers conferred and the source of the powers; and
- (d) state the date (if any) on which it expires; and
- (e) state that the power does not authorise entry into any part of premises used for residential purposes unless the occupier consents; and

Stock (Chemical Residues) Amendment Act 1993 No. 5

SCHEDULE 1—GENERAL AMENDMENTS—*continued*

(f) bear the signature of the person by whom it is issued and state the capacity in which the person is acting in issuing the certificate.

(3) An inspector may not enter any part of premises used for residential purposes unless the occupier consents.

(4) If damage is caused by an inspector exercising a power of entry under this section, a reasonable amount of compensation is recoverable as a debt owed by the employer of the inspector to the owner of the premises or property entered, unless the exercise of the power was obstructed.

(5) This section does not apply to a power conferred by a search warrant.

(6) In this section:

“**certificate of authority**” means a certificate that, to enable an inspector to exercise a power conferred by section 5, is issued to the inspector by the Chief, Division of Animal Industries.

(4) Sections 12A, 12B:

After section 12, insert:

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12A. (1) If the Minister is of the opinion that the use on stock of:

- (a) a specified kind of stock medicine; or
- (b) another substance of a specified kind,

would be likely to have an adverse effect on trade in stock or a product derived from stock, the Minister may publish in the Gazette an order declaring that this section applies to the stock medicine or other substance.

(2) The provisions of this Act (except section 11) apply to any stock that are, or may have been, treated with a stock medicine or other substance the subject of an order in force under this section in the same way as they apply to stock that are, or may be, residue affected.

SCHEDULE 1—GENERAL AMENDMENTS—*continued***Representations on sale of stock after treatment**

12B. A seller of stock who represents to the buyer that the stock have not been treated with a stock medicine or other substance specified in an order in force under section 12A is guilty of an offence if the seller:

- (a) knew that the stock had been treated with such a stock medicine or other substance; or
- (b) did not know whether the stock had been so treated.

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

SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES

(Sec. 3)

- (1) Sections 5 (2), 6 (1), 7 (4), 7A, 12 (3):

Omit "5 penalty units" wherever occurring, insert instead "100 penalty units".

- (2) Section 8 (**Notice for detention of residue affected stock**):

From section 8 (5), omit "10 penalty units", insert instead "200 penalty units or, for an offence by a corporation, 400 penalty units".

- (3) Section 15:

Omit the section, insert instead:

Proceedings for offences

15. (1) Proceedings for an offence under 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 for an offence are brought before a Local Court, the maximum penalty that the Court may impose is the lesser of:

- (a) 50 penalty units; and
- (b) the maximum penalty provided by this Act or the regulations for the offence.

Stock (Chemical Residues) Amendment Act 1993 No. 5

SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES—
continued

(3) Proceedings before a Local Court for an offence under this Act must be commenced not later than 12 months after the time at which the offence is alleged to have been committed.

(4) Section 16 (**Regulations**):

From section 16 (3), omit “5 penalty units”, insert instead “50 penalty units”.

[*Minister's second reading speech made in—
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