

FIRST PRINT

STOCK DISEASES (AMENDMENT) BILL 1994

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to make a number of amendments to the Stock Diseases Act 1923 to update or simplify various provisions including those relating to the powers of inspectors. Some of the amendments stem from the repeal and re-enactment of the regulations under the Act which took effect on 1 September 1992. A number of matters dealt with in the now repealed regulations are to be transferred to the Act itself by this Bill.

Clause 1 specifies the short title of the proposed Act.

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

Clause 3 gives effect to the Schedule of amendments to the Stock Diseases Act 1923 (Schedule 1).

Schedule 1 contains the amendments described above.

Schedule 1 (1) amends section 3 to provide a definition of "protected area" (a concept already in the Act, meaning an area notified by the Minister under existing section 11A as an area into which certain stock or things must not be brought), to define "record" in order to simplify references to documents, papers and other records in the substantive provisions of the Act, and to update or consequentially amend the definitions of "Director-General", "infected" and "quarantine area".

Schedule 1 (2) amends section 5 so that it will refer to the Department of Agriculture (as it is now called).

Schedule 1 (3) amends section 6 to ensure that the appointment of inspectors is not dependent on notification in the Gazette.

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Schedule 1 (4) incorporates in section 7 an inspector's power to require stock to be tested by their owner or person in charge of them (in addition to the present power of an inspector simply to do the testing), to detain or take possession of stock by displaying a notice adjacent to the stock, to brand or otherwise mark stock for the purposes of the Act and to permit the movement of stock in a number of cases where it would otherwise be illegal to move the stock. The item also updates a reference to Departmental officers.

Schedule 1 (5) simplifies the expression of the requirement in section 7A that a person produce records on demand to an inspector, but limits the situation in which the person must comply with the requirement (so that an inspector must warn the person that it is an offence not to comply with such a requirement).

Schedule 1 (6) amends section 8 in relation to the manner of disinfecting buildings and land and, in addition, empowers an inspector to require a person to disinfect clothing or footwear or to test infected stock.

Schedule 1 (7) and (23) replace sections 8C and 20I with a provision prohibiting the obstruction of inspectors which largely parallels section 50 of the Exotic Diseases of Animals Act 1991 (proposed section 20I).

Schedule 1 (8) amends section 9 to provide a fresh list of officers to whom notice must be given if there is an outbreak of disease in stock, to indicate the matters to be included in the notice and to provide for a specific penalty for failing to give such a notice.

Schedule 1 (9) amends section 11 to enable voluntary quarantine undertakings to be accepted or ended by an inspector on behalf of the Minister, instead of solely by the Minister, as at present.

Schedule 1 (10) amends section 12A to enable the stop sign used by inspectors to be one approved by the Chief, Division of Animal Industries instead of one prescribed by the regulations.

Schedule 1 (11) restates provisions from the old regulations as a new section 12B to enable the Minister to prohibit agricultural shows and public sales in cases where it is necessary to do so to prevent the spread of disease in stock.

Schedule 1 (12) amends section 13 to enable fencing orders to be given by inspectors to occupiers of land as well as landowners, and lessees of Crown land, if the land is in an area where there is a general Ministerial requirement to fence land.

Schedule 1 (13) substitutes section 17 to enable the Minister to authorise the Chief, Division of Animal Industries and Senior Field Veterinary Officers to order the destruction of infected stock, infected carcasses and other infected things. The destruction of uninfected stock, carcasses and other things may also be ordered, but only in quarantine areas or protected areas. Whether the stock are infected or not, destruction may only be ordered if it would help prevent the spread of disease and only if certain formal requirements set out in the proposed section are met.

Schedule 1 (14) amends section 18 to require the approval of the Chief, Division of Animal Industries, a Senior Field Veterinary Officer or the Chairman of the Board of Tick Control before an order for destruction under section 17 (as substituted by the proposed Act) which has not been complied with can be carried out by an inspector.

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Schedule 1 (15) inserts proposed section 19FA to create an offence of attaching wrong tags to stock or branding stock wrongly.

Schedule 1 (16) inserts in section 20 an additional subsection to prohibit the sale of stock illegally brought into New South Wales unless an inspector has authorised the sale.

Schedule 1 (17) substitutes section 20B (which prohibits the sale of diseased stock) with a provision that will apply only to cases where a person has reason to believe, or ought to know, that stock are diseased. The new section will allow special sales of diseased stock to be held in limited circumstances. Schedule 1 (17) also inserts proposed section 20BA to require notice of a public sale to be given in advance to inspectors if the sale is to be held in a quarantine area.

Schedule 1 (18) extends the application of the restrictions on the movement of stock contained in section 20C to movement into, within and out of quarantine areas, and makes certain consequential amendments. It is also made clear that section 20C does not prevent the movement of stock in accordance with orders or permits under the Act or to special sales of diseased stock.

Section 20C (as amended) will also require the cleaning of vehicles used to move infected stock.

Schedule 1 (19) enlarges the concept of straying in section 20D to include stock straying from a quarantine area.

Schedule 1 (20) introduces a prohibition (in section 20F) against interfering with inspectors' notices (such as notices to detain cattle or to stop vehicles).

Schedule 1 (21) transfers prohibitions included in the old regulations to proposed sections 20FA (Treatment or seizure of stock) and 20FB (Feeding of prohibited substance to stock).

Schedule 1 (22) amends section 20G to broaden its prohibition to cover the removal of brands and marks.

Schedule 1 (24) inserts proposed section 20K setting out certain follow-up obligations of a person who states in connection with the sale of stock that the stock are disease-free if the person later has reason to believe that the stock are diseased. The obligations are to inform an inspector and to take reasonable steps to inform the purchaser of the stock (and any agent involved in the sale of the stock).

Schedule 1 (25) makes miscellaneous (including consequential) amendments to the regulation-making power in section 23.

Schedule 1 (26) and (27) insert savings and transitional provisions (proposed section 24 and Schedule 2).

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STOCK DISEASES (AMENDMENT) BILL 1994

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Stock Diseases Act 1923 No. 34

SCHEDULE 1—AMENDMENTS

STOCK DISEASES (AMENDMENT) BILL 1994

NEW SOUTH WALES



No. , 1994

A BILL FOR

An Act to amend the Stock Diseases Act 1923 with respect to the powers of inspectors and the sale of diseased stock; and for other purposes.

*Stock Diseases (Amendment) 1994***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Stock Diseases (Amendment) Act 1994.

5 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.

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SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 3 (Definitions):

(a) From section 3 (1), omit the definition of "Director-General", insert instead:

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"Director-General" means the Director-General of the Department of Agriculture.

(b) From section 3 (1), omit the definition of "Infected", insert instead:

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"Infected" means:

(a) in relation to stock—that the stock are diseased or have been on land on which there are, or have been within the preceding 12 months, diseased stock; or

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(b) in relation to a carcass—that the carcass is of infected stock; or

(c) in relation to land—that the land is land on which diseased stock are present, or have been present during the preceding 12 months, except if that presence consisted only in the transport of the stock by vehicle over the land.

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(c) Insert in section 3 (1) in alphabetical order:

"Protected area" means land declared by the Minister to be a protected area under section 11A.

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SCHEDULE 1—AMENDMENTS—*continued*

- 5
- “Record”** means any book, account, document, paper or other source of written information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means.
- (d) From paragraph (c) of the definition of “Quarantine area” in section 3 (1), omit “(1) (c)”.
- (2) Section 5 (**Board of Tick Control**):
From section 5 (5) (a), omit “and Fisheries”.
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- (3) Section 6 (**Inspectors**):
Omit section 6 (1), insert instead:
(1) The Director-General may appoint a person to be an inspector for the purposes of this Act.
- (4) Section 7 (**Powers of inspectors**):
- 15
- (a) In section 7 (1) (b), omit “take possession of”, insert instead “detain or take possession of”.
- (b) After section 7 (1) (bi), insert:
(bii) order the owner or person in charge of stock to cause the stock to be tested for any disease in a manner approved by the Chief, Division of Animal Industries, whether or not the stock have previously been tested, and whether or not that testing was ordered or caused to be done by an inspector;
- 20
- (c) After section 7 (1), insert:
(1A) For the purposes of (and without limiting) subsection (1) (b), an inspector may detain or take possession of stock by displaying a notice stating that the inspector has detained or taken possession of the stock (as appropriate). The notice must be prominently displayed on, next to, or on a gate to, the pen, yard, paddock or other enclosure or area where the stock are located.
- 25
- 30
- (d) In section 7 (2), before “(c)”, insert “(bii) or”.
- (e) Omit section 7 (4), insert instead:
(4) For the purposes of subsection (3), an authorised officer is the Chief, Division of Animal Industries, a Senior
- 35

Stock Diseases (Amendment) 1994

SCHEDULE 1—AMENDMENTS—*continued*

Field Veterinary Officer or the Chairman of the Board of Tick Control.

5 (5) An inspector may, in a manner approved by the Chief, Division of Animal Industries, brand or otherwise mark any stock or things:

- (a) which the inspector otherwise suspects on reasonable grounds are infected; or
- 10 (b) which the inspector suspects on reasonable grounds have been moved contrary to this Act or a regulation or other instrument made under this Act; or
- (c) which are straying, or the subject of any order, or seized, under this Act; or
- 15 (d) otherwise for the purpose of investigating or controlling diseases, even if the stock or things themselves are not infected.

20 (6) An inspector may issue a written permit to a person who is the owner, or person in charge, of stock, permitting that person (despite the provisions of this Act) to move the stock in accordance with the terms of the permit.

(5) Section 7A (**Questions and inquiries by inspectors**):

(a) Omit section 7A (2), insert instead:

25 (2) The person must also comply with any demand by the inspector to produce any record in the possession or under the control of the person relating to the stock, carcass, fodder or fittings if the inspector has put a question to the person under subsection (1) and also warned the person that it is an offence not to comply with a demand under this subsection.

30 (b) From section 7A (3) and (4), omit “, document or paper” wherever occurring.

(6) Section 8 (**Further powers of inspectors in relation to infected stock**):

(a) From section 8 (1) (a), omit “identified or treated”, insert instead “identified, tested or treated”.

35 (b) From section 8 (1) (a), (d) and (e), omit “as the inspector may require or as may be prescribed”, wherever occurring, insert instead “as the inspector may specify (but subject to any requirement prescribed by the regulations)”.

Stock Diseases (Amendment) 1994

SCHEDULE 1—AMENDMENTS—*continued*

- (c) From section 8 (1) (f), omit “as may be prescribed to the satisfaction of the inspector”, insert instead “as the inspector may specify (but subject to any requirement prescribed by the regulations)”. 5
- (d) After section 8 (4), insert:
- (5) An inspector may order a person who enters or leaves a quarantine area, or who enters or leaves a vehicle, vessel or land which has been in contact with infected stock or an infected carcass or an infected thing, to disinfect the person’s clothes and footwear in such manner and within such time as the inspector may specify (but subject to any requirement prescribed by the regulations). 10
- (7) Section 8C (**Personation of inspector**): 15
- Omit the section.
- (8) Section 9 (**Occupier etc. to give notice**):
- (a) Omit section 9 (3), insert instead:
- (3) A written notice referred to in subsection (1) or (2) is to be given to:
- (a) a ranger employed by the rural lands protection board for the rural lands protection district in which the stock are then located; or 20
- (b) the district veterinarian for that district; or
- (c) the Senior Field Veterinary Officer for the rural lands protection district in which the stock are then located. 25
- (3AA) The notice must state the following matters to the best of the knowledge of the person giving the notice:
- (a) the nature of the disease;
- (b) the number and description of the stock and of the stock which are diseased or believed or suspected to be diseased; 30
- (c) the location of the stock;
- (d) the name and address of the owner of the stock;
- (e) the name of the occupier of the land where the stock are located; 35
- (f) if the stock are travelling, the name and address of the person in charge of the stock.

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SCHEDULE 1—AMENDMENTS—*continued*

(b) After section 9 (6), insert:

Maximum penalty: 100 penalty units.

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

5 After section 11 (3), insert:

(4) For the purposes of this section, an inspector may, on behalf of the Minister, accept an undertaking given by an owner or occupier in a form acceptable to the inspector and release the owner or occupier from an undertaking.

10 (10) Section 12A (**Powers of inspectors to stop, enter and search vehicles etc.**):

From section 12A (1), omit “of a type prescribed”, insert instead “of a type approved by the Chief, Division of Animal Industries”.

15 (11) Section 12B:

After section 12A, insert:

Bans on shows or sales

20 12B. (1) The Minister may, by order published in the Gazette, prohibit, or impose conditions on, the holding of agricultural shows or public sales of stock in a specified area if the Minister considers that such shows or sales are likely to facilitate the spread of a disease among stock.

25 (2) A person must not hold or assist in holding an agricultural show or public sale of stock, or cause such a show or sale to be held, if the show or sale has been prohibited under this section.

30 (3) A person who holds or assists in holding an agricultural show or public sale of stock, or causes such a show or sale to be held, must not do anything contrary to any condition imposed under this section on the holding of the show or sale.

(4) An order under this section remains in force for the period (if any) specified in the order, or 6 months, whichever is the shorter.

35 Maximum penalty: 100 penalty units.

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SCHEDULE 1—AMENDMENTS—*continued*

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

Omit section 13 (1)–(3), insert instead:

(1) The Minister may, by notice published in the Gazette, require all owners of land, and all lessees of any Crown land, within a quarantine area or a protected area, to fence the land within the time specified in the notice and in a manner sufficient to prevent any stock of a class specified in the notice from getting in or getting out. 5

(2) If an inspector is of the opinion that there are stock of that class in the area where such a requirement is in force, on land which is not sufficiently fenced or enclosed to prevent stock of that class getting in or getting out, the inspector may, by notice in writing, order the owner of the land (or the lessee if it is Crown land) or the occupier of the land to carry out such fencing or repairs or additions to fencing as the inspector considers necessary, within the time specified in the notice. 10 15

(13) Section 17:

Omit the section, insert instead: 20

Power to order destruction

17. (1) An order may be given to a person to destroy or dispose of infected stock or any carcass, or produce, of infected stock, or fodder or other thing used in connection with infected stock. 25

(2) An order may be given to a person to destroy or dispose of stock or any carcass, or produce, of stock, or fodder or other thing used in connection with stock, if the stock, carcass, produce, fodder or other thing is in a quarantine area or protected area. For the purposes of this subsection, it does not matter whether the stock are infected or not. 30

(3) An order under this section may be given:

(a) only if the person giving it is satisfied that the destruction or disposal would tend to prevent the spread or occurrence of disease; and 35

(b) only to the owner or person in charge of the stock, carcass, produce, fodder or other thing concerned or to

*Stock Diseases (Amendment) 1994*SCHEDULE 1—AMENDMENTS—*continued*

any owner or occupier of land on which the stock, carcass, produce, fodder or other thing is located; and

5 (c) only by the Minister or a person authorised by the Minister for the purposes of this section.

(4) Authorisation for the purposes of this section may be granted by the Minister to any one or more of the following:

(a) the Chief, Division of Animal Industries;

(b) Senior Field Veterinary Officers.

10 (5) A person referred to in subsection (4) (a) or (b) cannot give an order under this section unless he or she has in possession a certificate of authorisation signed by the Minister and shows it on demand to the person to whom he or she gives the order. The certificate may be either an
15 original or a copy made by facsimile transmission.

(14) Section 18 (**Proceedings in default of compliance**):

After section 18 (2), insert:

20 (3) The requirements of an order under section 17 for destruction or disposal must not be carried out under this section without the express approval of the Chief, Division of Animal Industries, a Senior Field Veterinary Officer or the Chairman of the Board of Tick Control. That approval can only be given in a particular case.

(15) Section 19FA:

25 After section 19F, insert:

Wrong tags and brands

30 19FA. (1) A person must not attach to stock (other than swine) a tag bearing particulars of identification, or cause or permit its attachment, unless by the attachment of the tag to them they are identified in accordance with this Part.

(2) A person must not mark swine with a brand which sets out particulars of identification, or cause or permit that marking, unless by so marking them they are identified in accordance with this Part.

35 Maximum penalty: 100 penalty units.

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SCHEDULE 1—AMENDMENTS—*continued*

(16) Section 20 (**Illegal introduction of stock**):

Before “Maximum penalty”, insert:

(2) A person must not sell, assist in selling, offer for sale or attempt to sell stock if: 5

(a) the person has reason to believe or ought to know that the stock have been introduced into the State in contravention of subsection (1); and

(b) the stock have been so introduced; and

(c) since that introduction an inspector has not authorised the sale of the stock. 10

(17) Sections 20B, 20BA:

Omit section 20B, insert instead:

Sale of diseased stock

20B. (1) A person must not sell stock which the person has reason to believe, or ought to know, are diseased. 15

(2) This section does not prevent the sale of diseased stock which an order under section 8 (1) (b) requires to be removed either to the place of the sale or to another place from the place of the sale. 20

(3) This section does not prevent the sale of stock diseased only with footrot, sheep lice or *Brucella ovis* infection (or only with more than one of those diseases), if the sale takes place at a sale approved by a Senior Field Veterinary Officer for stock infected only with one or more of those diseases. 25

Maximum penalty: 200 penalty units.

(4) In this section, “sell” includes offer for sale, assist in selling and attempt to sell.

Notice of public sale in quarantine area

20BA. A person must not hold a public sale of stock (even if the stock are not diseased) within a quarantine area if 14 days’ notice in writing of the sale has not been given to an inspector. 30

Maximum penalty: 100 penalty units.

*Stock Diseases (Amendment) 1994*SCHEDULE 1—AMENDMENTS—*continued*(18) Section 20C (**Movement of stock**):

(a) Omit section 20C (1) (c), insert instead:

- 5 (c) into, within or out of a quarantine area or from infected land; or
- (d) if an inspector has ordered the stock to be tested under section 7 (1) (bii), the stock have not yet been tested in accordance with that order and an inspector has not given permission for the stock to be moved; or
- 10 (e) otherwise in contravention of this Act or the regulations.

(b) Omit section 20C (3), insert instead:

15 (3) A person does not commit an offence against this section by doing anything in accordance with a permit under section 7 (6) or an order under section 8 (1) (b) or if the person moves stock in accordance with the following conditions:

- 20 (a) the stock are infected only with footrot, sheep lice or *Brucella ovis* infection (or only with more than one of those diseases); and
- (b) the stock are transported in a vehicle directly to an abattoir for the slaughter of the stock or directly to a sale approved by a Senior Field Veterinary Officer for stock infected only with one or more of those diseases; and
- 25 (c) the stock are accompanied by a transported stock statement under the Rural Lands Protection Act 1989.

30 (4) For the purposes of subsection (2) (c), the holder of an authority under the Rural Lands Protection Act 1989 to walk or graze stock on a travelling stock reserve is not an occupier of that reserve.

35 (5) The owner of a vehicle in which infected stock are transported in compliance with a permit or order (as referred to in subsection (3)) and any person having custody or control of the vehicle are guilty of an offence against this Act if any manure, hair and other matter which is, or can harbour, a disease or disease organism have not been cleaned from the vehicle immediately after the stock have left the vehicle.

Maximum penalty: 20 penalty units.

*Stock Diseases (Amendment) 1994*SCHEDULE 1—AMENDMENTS—*continued*(19) Section 20D (**Straying stock**):

From section 20D (1), omit “within a quarantine area or protected area”, insert instead “within or out of a quarantine area or within a protected area”.

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(20) Section 20F (**Interfering with a quarantine fence, gate or notice**):

Before “Maximum penalty”, insert:

(2) A person must not remove or interfere with a notice displayed by an inspector under this Act, unless the person is an inspector or does so with the authority of an inspector.

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(21) Sections 20FA, 20FB:

After section 20F, insert:

Treatment or seizure of stock

20FA. (1) A person must carry out treatment ordered by an inspector, or prescribed by or under this Act, in accordance with the directions (if any) given to the person by an inspector.

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(2) A person must not remove or attempt to remove a chemical or solution from stock to which it has been applied as part of a treatment ordered by an inspector or prescribed by or under this Act, unless the person is an inspector or does so with the authority of an inspector.

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(3) A person must not recover, attempt to recover, or aid or permit another person to recover or attempt to recover any stock, carcass, fodder or other thing which an inspector has detained or taken possession of under this Act, unless the person is an inspector or does so with the authority of an inspector.

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Maximum penalty: 100 penalty units.

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Feeding of prohibited substance to stock

20FB. (1) A person must not feed a prohibited substance to stock or cause or permit stock to feed on a prohibited substance.

(2) The owner and any person in charge of stock must take all steps that are reasonably practicable to prevent stock from having access to a prohibited substance.

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SCHEDULE 1—AMENDMENTS—*continued*

(3) This section does not apply in relation to stock prescribed by the regulations or in the circumstances (if any) prescribed by the regulations.

5 (4) In this section, “**prohibited substance**” means a substance prescribed by the regulations as a prohibited substance.

Maximum penalty: 100 penalty units.

10 (22) Section 20G (**Person must not deface brand or mark with yellow pigment**):

From section 20G (1), omit “alter or deface a brand”, insert instead “alter, deface or remove a brand (or mark)”.

(23) Section 20I:

Omit the section, insert instead:

15 **Obstruction**

20I. (1) A person must not:

- 20 (a) assault or threaten an inspector in the exercise of the inspector’s powers under this Act; or
- (b) assault or threaten a person assisting an inspector in the exercise of those powers; or
- (c) threaten any person because the person has been questioned by, or who has furnished information or records to, an inspector in the exercise of those powers; or
- 25 (d) impersonate an inspector.

Maximum penalty: 200 penalty units.

(2) A person must not, without reasonable excuse:

- 30 (a) obstruct or hinder an inspector in the exercise of the inspector’s powers under this Act; or
- (b) obstruct or hinder a person assisting an inspector in the exercise of those powers; or
- (c) prevent or attempt to prevent a person from giving information to or being questioned by an inspector acting in the exercise of those powers.

35 Maximum penalty: 100 penalty units.

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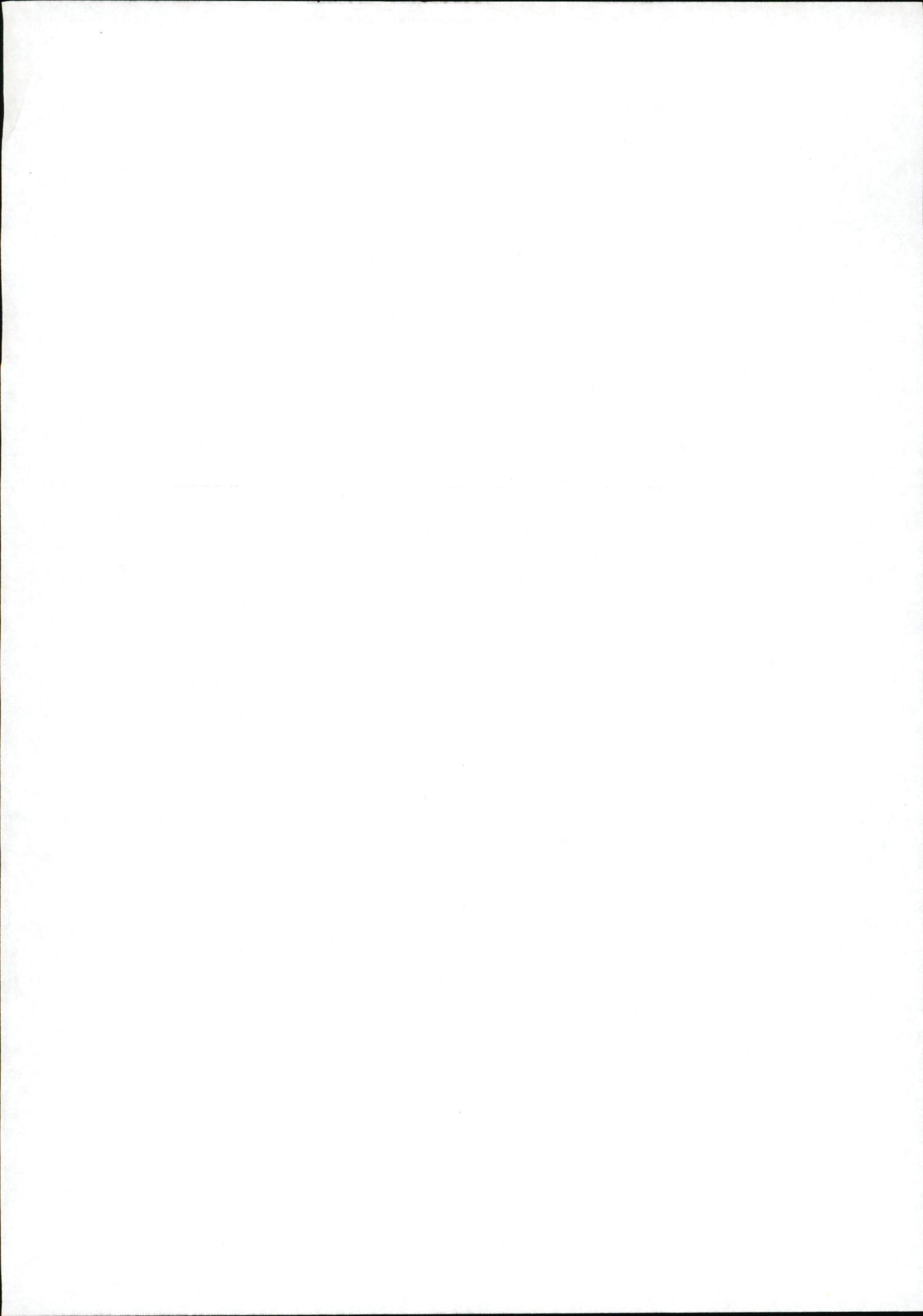
LEGISLATIVE COUNCIL

Stock Diseases (Amendment) Bill 1994

First Print

Amendment to be moved in Committee

Page 13, Schedule 1, item (24), lines 2-31. Omit item (24).



*Stock Diseases (Amendment) 1994*SCHEDULE 1—AMENDMENTS—*continued*

(24) Section 20K:

After section 20J, insert:

Notification of disease to purchaser and inspector

20K. (1) This section applies if stock are purchased and a person has made an oral or written statement in the course of or in connection with the sale of the stock that the stock are not diseased. 5

(2) If, within 12 months after making the statement, the person has reason to believe that the stock are diseased (or were diseased at the time of the sale), the person must take reasonable steps to notify an inspector, the purchaser of the stock, and (if the stock were sold by an agent on behalf of the person who made the statement) the agent who sold the stock, that the person has reason to believe that the stock are (or were) diseased. 10 15

Maximum penalty: 100 penalty units.

(3) This section does not require a person to notify:

(a) an inspector, if it is by virtue of a statement by that or another inspector; or 20

(b) a purchaser, if it is by virtue of a statement by the purchaser; or

(c) an agent, if it is by virtue of a statement by the agent, that the person has reason to believe that the stock are (or were) diseased. 25

(4) Proceedings against a person for a contravention of this section may be instituted at any time within 12 months after the date on which the offence is alleged to have been committed.

(5) In this section, "sale" includes an offer for sale, assistance in selling and an attempt to sell. 30

(25) Section 23 (**Regulations**):

(a) Omit section 23 (1) (g) and (v), (1A) and (1C).

(b) From section 23 (1) (m), omit "stock are found or are pastured or kept", insert instead "there are stock". 35

(c) From section 23 (1) (n), omit "are depastured or kept", insert instead "there are or have been".

*Stock Diseases (Amendment) 1994*SCHEDULE 1—AMENDMENTS—*continued*

- (d) From section 23 (1) (t), omit “in respect of any disease”, insert instead “or tested in respect of any disease or which there is reason to suspect are infected”.

5 (26) Section 24:

After section 23, insert:

Savings, transitional and other provisions

24. Schedule 2 has effect.

10 (27) Schedule 2:

After Schedule 1, insert:

**SCHEDULE 2—SAVINGS, TRANSITIONAL AND
OTHER PROVISIONS**

(Sec. 24)

Part 1—Preliminary

15

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Stock Diseases (Amendment) Act 1994

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(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

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(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

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(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done, or omitted to be done, before the date of its publication.

Stock Diseases (Amendment) 1994

SCHEDULE 1—AMENDMENTS—*continued*

**Part 2—Provisions consequent on the enactment of
the Stock Diseases (Amendment) Act 1994**

Definition

2. In this Part, “1994 Act” means the Stock Diseases (Amendment) Act 1994. 5

Inspectors

3. A person who was an inspector immediately before section 6 (1) was replaced by the 1994 Act continues in office as if the person had been appointed under that subsection (as so replaced). 10

Occupier’s notice as to diseased stock

4. (1) A notice given in accordance with section 9 before the amendment of that section by the 1994 Act is taken to have been given in accordance with section 9 as so amended. 15

(2) If, before the amendment of section 9 by the 1994 Act, a person complied with that section to the extent of providing verbal notice by virtue of section 9 (4), that section is taken to continue in force in relation to that notice as if it had not been so amended until the time for confirming the notice would have elapsed had the section not been so amended. 20

Notice to stop vehicle

5. A type of traffic sign that, immediately before the amendment of section 12A by the 1994 Act, was a prescribed type of traffic sign under that section is taken to have been approved by the Chief, Division of Animal Industries on the day when that amendment commenced. 25

Notice to fence land

6. (1) A requirement in force under section 13 immediately before the amendment of that section by the 1994 Act and contained in a notification published in the Gazette continues in force on and from the commencement of that amendment as if it had been contained in a notice under section 13 as so amended. 30

(2) Any stock specified in such a notification is taken to have been specified as a class of stock for the purposes of the notice. 35

Stock Diseases (Amendment) 1994

SCHEDULE 1—AMENDMENTS—*continued*

5 (3) When a requirement in a notification continues in force as a requirement in a notice, the notice is taken to specify a reasonable time from the time when the notification was published as the time for the fencing to be carried out.

(4) An order given by notice by an inspector, and in force, under section 13 before the amendment of that section by the 1994 Act continues in force under that section as so amended on and from the commencement of that amendment.

10 (5) On and from that commencement, the time specified in an order saved under subclause (4) is taken to run from the day when that order was given before the commencement.

Destruction order

15 7. An order by the Minister in force under section 17 immediately before the replacement of that section by the 1994 Act continues in force under section 17 as so replaced.

SECOND PRINT

STOCK DISEASES (AMENDMENT) BILL 1994

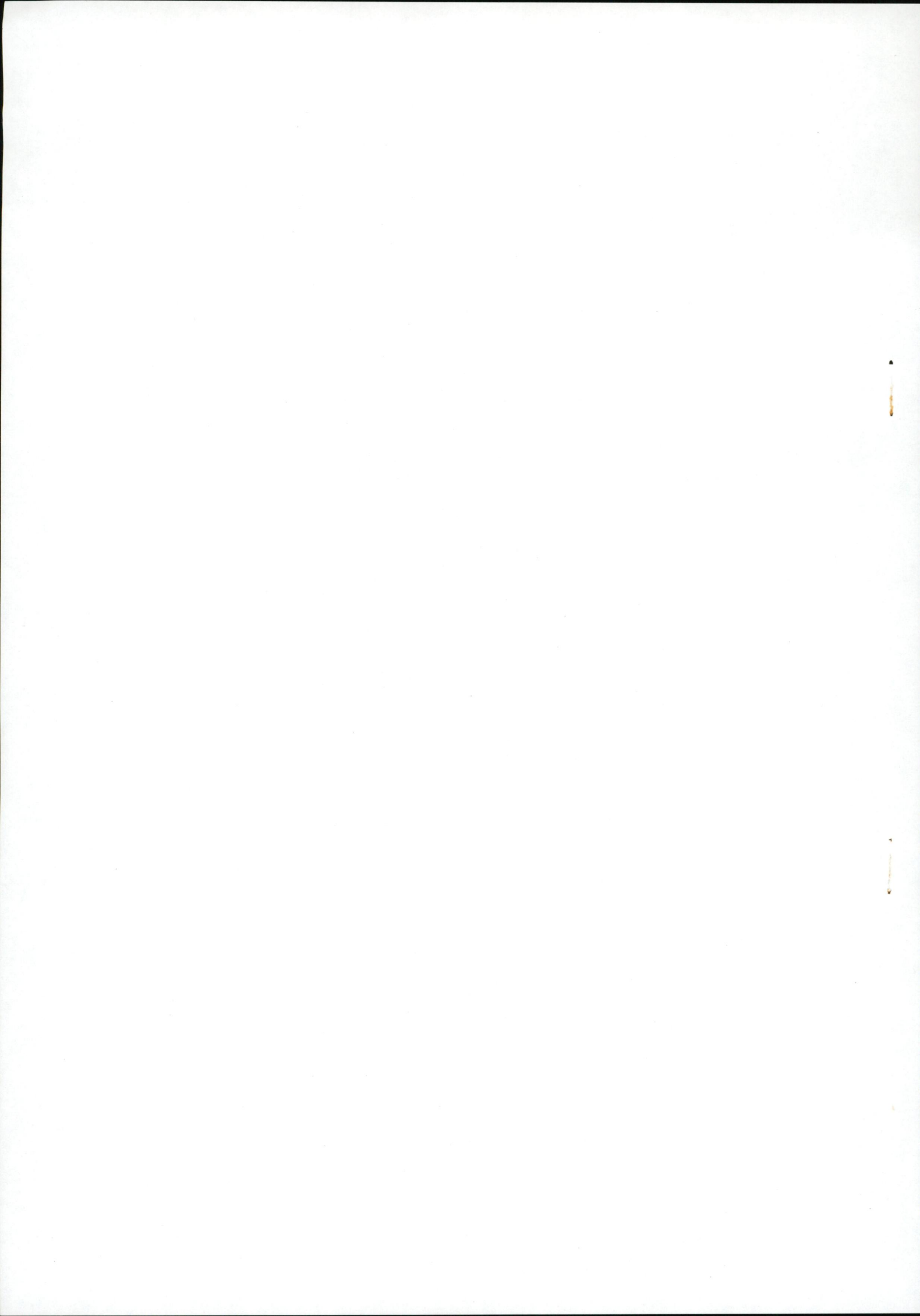
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Stock Diseases Act 1923 No. 34

SCHEDULE 1—AMENDMENTS



This PUBLIC BILL originated in the LEGISLATIVE COUNCIL and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council

Clerk of the Parliaments

NEW SOUTH WALES



Act No. , 1994

An Act to amend the Stock Diseases Act 1923 with respect to the powers of inspectors and the sale of diseased stock; and for other purposes.

Stock Diseases (Amendment) 1994

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Stock Diseases (Amendment) Act 1994.

5 **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.

10

SCHEDULE 1—AMENDMENTS

(Sec. 3)

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

(a) From section 3 (1), omit the definition of "Director-General", insert instead:

15

"Director-General" means the Director-General of the Department of Agriculture.

(b) From section 3 (1), omit the definition of "Infected", insert instead:

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"Infected" means:

(a) in relation to stock—that the stock are diseased or have been on land on which there are, or have been within the preceding 12 months, diseased stock; or

25

(b) in relation to a carcass—that the carcass is of infected stock; or

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(c) in relation to land—that the land is land on which diseased stock are present, or have been present during the preceding 12 months, except if that presence consisted only in the transport of the stock by vehicle over the land.

(c) Insert in section 3 (1) in alphabetical order:

"Protected area" means land declared by the Minister to be a protected area under section 11A.

Stock Diseases (Amendment) 1994

SCHEDULE 1—AMENDMENTS—*continued*

- “**Record**” means any book, account, document, paper or other source of written information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means. 5
- (d) From paragraph (c) of the definition of “Quarantine area” in section 3 (1), omit “(1) (c)”. 5
- (2) Section 5 (**Board of Tick Control**): 10
From section 5 (5) (a), omit “and Fisheries”.
- (3) Section 6 (**Inspectors**):
Omit section 6 (1), insert instead:
(1) The Director-General may appoint a person to be an inspector for the purposes of this Act. 15
- (4) Section 7 (**Powers of inspectors**): 15
- (a) In section 7 (1) (b), omit “take possession of”, insert instead “detain or take possession of”. 20
- (b) After section 7 (1) (bi), insert:
(bii) order the owner or person in charge of stock to cause the stock to be tested for any disease in a manner approved by the Chief, Division of Animal Industries, whether or not the stock have previously been tested, and whether or not that testing was ordered or caused to be done by an inspector; 20
- (c) After section 7 (1), insert: 25
(1A) For the purposes of (and without limiting) subsection (1) (b), an inspector may detain or take possession of stock by displaying a notice stating that the inspector has detained or taken possession of the stock (as appropriate). The notice must be prominently displayed on, next to, or on a gate to, the pen, yard, paddock or other enclosure or area where the stock are located. 30
- (d) In section 7 (2), before “(c)”, insert “(bii) or”. 30
- (e) Omit section 7 (4), insert instead: 35
(4) For the purposes of subsection (3), an authorised officer is the Chief, Division of Animal Industries, a Senior

Stock Diseases (Amendment) 1994

SCHEDULE 1—AMENDMENTS—*continued*

Field Veterinary Officer or the Chairman of the Board of Tick Control.

5 (5) An inspector may, in a manner approved by the Chief, Division of Animal Industries, brand or otherwise mark any stock or things:

- (a) which the inspector otherwise suspects on reasonable grounds are infected; or
- 10 (b) which the inspector suspects on reasonable grounds have been moved contrary to this Act or a regulation or other instrument made under this Act; or
- (c) which are straying, or the subject of any order, or seized, under this Act; or
- 15 (d) otherwise for the purpose of investigating or controlling diseases, even if the stock or things themselves are not infected.

20 (6) An inspector may issue a written permit to a person who is the owner, or person in charge, of stock, permitting that person (despite the provisions of this Act) to move the stock in accordance with the terms of the permit.

(5) Section 7A (**Questions and inquiries by inspectors**):

(a) Omit section 7A (2), insert instead:

25 (2) The person must also comply with any demand by the inspector to produce any record in the possession or under the control of the person relating to the stock, carcass, fodder or fittings if the inspector has put a question to the person under subsection (1) and also warned the person that it is an offence not to comply with a demand under this subsection.

30 (b) From section 7A (3) and (4), omit “, document or paper” wherever occurring.

(6) Section 8 (**Further powers of inspectors in relation to infected stock**):

35 (a) From section 8 (1) (a), omit “identified or treated”, insert instead “identified, tested or treated”.

(b) From section 8 (1) (a), (d) and (e), omit “as the inspector may require or as may be prescribed”, wherever occurring, insert instead “as the inspector may specify (but subject to any requirement prescribed by the regulations)”.

Stock Diseases (Amendment) 1994

SCHEDULE 1—AMENDMENTS—*continued*

- (c) From section 8 (1) (f), omit “as may be prescribed to the satisfaction of the inspector”, insert instead “as the inspector may specify (but subject to any requirement prescribed by the regulations)”. 5
- (d) After section 8 (4), insert:
- (5) An inspector may order a person who enters or leaves a quarantine area, or who enters or leaves a vehicle, vessel or land which has been in contact with infected stock or an infected carcass or an infected thing, to disinfect the person’s clothes and footwear in such manner and within such time as the inspector may specify (but subject to any requirement prescribed by the regulations). 10
- (7) Section 8C (**Personation of inspector**): 15
- Omit the section.
- (8) Section 9 (**Occupier etc. to give notice**):
- (a) Omit section 9 (3), insert instead:
- (3) A written notice referred to in subsection (1) or (2) is to be given to:
- (a) a ranger employed by the rural lands protection board for the rural lands protection district in which the stock are then located; or 20
- (b) the district veterinarian for that district; or
- (c) the Senior Field Veterinary Officer for the rural lands protection district in which the stock are then located. 25
- (3AA) The notice must state the following matters to the best of the knowledge of the person giving the notice:
- (a) the nature of the disease;
- (b) the number and description of the stock and of the stock which are diseased or believed or suspected to be diseased; 30
- (c) the location of the stock;
- (d) the name and address of the owner of the stock;
- (e) the name of the occupier of the land where the stock are located; 35
- (f) if the stock are travelling, the name and address of the person in charge of the stock.

Stock Diseases (Amendment) 1994

SCHEDULE 1—AMENDMENTS—*continued*

(b) After section 9 (6), insert:

Maximum penalty: 100 penalty units.

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

5

After section 11 (3), insert:

(4) For the purposes of this section, an inspector may, on behalf of the Minister, accept an undertaking given by an owner or occupier in a form acceptable to the inspector and release the owner or occupier from an undertaking.

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(10) Section 12A (**Powers of inspectors to stop, enter and search vehicles etc.**):

From section 12A (1), omit “of a type prescribed”, insert instead “of a type approved by the Chief, Division of Animal Industries”.

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(11) Section 12B:

After section 12A, insert:

Bans on shows or sales

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12B. (1) The Minister may, by order published in the Gazette, prohibit, or impose conditions on, the holding of agricultural shows or public sales of stock in a specified area if the Minister considers that such shows or sales are likely to facilitate the spread of a disease among stock.

25

(2) A person must not hold or assist in holding an agricultural show or public sale of stock, or cause such a show or sale to be held, if the show or sale has been prohibited under this section.

30

(3) A person who holds or assists in holding an agricultural show or public sale of stock, or causes such a show or sale to be held, must not do anything contrary to any condition imposed under this section on the holding of the show or sale.

(4) An order under this section remains in force for the period (if any) specified in the order, or 6 months, whichever is the shorter.

35

Maximum penalty: 100 penalty units.

*Stock Diseases (Amendment) 1994*SCHEDULE 1—AMENDMENTS—*continued*(12) Section 13 (**Power to order fencing**):

Omit section 13 (1)–(3), insert instead:

(1) The Minister may, by notice published in the Gazette, require all owners of land, and all lessees of any Crown land, within a quarantine area or a protected area, to fence the land within the time specified in the notice and in a manner sufficient to prevent any stock of a class specified in the notice from getting in or getting out.

(2) If an inspector is of the opinion that there are stock of that class in the area where such a requirement is in force, on land which is not sufficiently fenced or enclosed to prevent stock of that class getting in or getting out, the inspector may, by notice in writing, order the owner of the land (or the lessee if it is Crown land) or the occupier of the land to carry out such fencing or repairs or additions to fencing as the inspector considers necessary, within the time specified in the notice.

(13) Section 17:

Omit the section, insert instead:

Power to order destruction

17. (1) An order may be given to a person to destroy or dispose of infected stock or any carcass, or produce, of infected stock, or fodder or other thing used in connection with infected stock.

(2) An order may be given to a person to destroy or dispose of stock or any carcass, or produce, of stock, or fodder or other thing used in connection with stock, if the stock, carcass, produce, fodder or other thing is in a quarantine area or protected area. For the purposes of this subsection, it does not matter whether the stock are infected or not.

(3) An order under this section may be given:

(a) only if the person giving it is satisfied that the destruction or disposal would tend to prevent the spread or occurrence of disease; and

(b) only to the owner or person in charge of the stock, carcass, produce, fodder or other thing concerned or to

*Stock Diseases (Amendment) 1994*SCHEDULE 1—AMENDMENTS—*continued*

any owner or occupier of land on which the stock, carcass, produce, fodder or other thing is located; and

(c) only by the Minister or a person authorised by the Minister for the purposes of this section.

(4) Authorisation for the purposes of this section may be granted by the Minister to any one or more of the following:

(a) the Chief, Division of Animal Industries;

(b) Senior Field Veterinary Officers.

(5) A person referred to in subsection (4) (a) or (b) cannot give an order under this section unless he or she has in possession a certificate of authorisation signed by the Minister and shows it on demand to the person to whom he or she gives the order. The certificate may be either an original or a copy made by facsimile transmission.

(14) Section 18 (**Proceedings in default of compliance**):

After section 18 (2), insert:

(3) The requirements of an order under section 17 for destruction or disposal must not be carried out under this section without the express approval of the Chief, Division of Animal Industries, a Senior Field Veterinary Officer or the Chairman of the Board of Tick Control. That approval can only be given in a particular case.

(15) Section 19FA:

After section 19F, insert:

Wrong tags and brands

19FA. (1) A person must not attach to stock (other than swine) a tag bearing particulars of identification, or cause or permit its attachment, unless by the attachment of the tag to them they are identified in accordance with this Part.

(2) A person must not mark swine with a brand which sets out particulars of identification, or cause or permit that marking, unless by so marking them they are identified in accordance with this Part.

Maximum penalty: 100 penalty units.

Stock Diseases (Amendment) 1994

SCHEDULE 1—AMENDMENTS—*continued*

(16) Section 20 (**Illegal introduction of stock**):

Before “Maximum penalty”, insert:

(2) A person must not sell, assist in selling, offer for sale or attempt to sell stock if: 5

(a) the person has reason to believe or ought to know that the stock have been introduced into the State in contravention of subsection (1); and

(b) the stock have been so introduced; and

(c) since that introduction an inspector has not authorised the sale of the stock. 10

(17) Sections 20B, 20BA:

Omit section 20B, insert instead:

Sale of diseased stock

20B. (1) A person must not sell stock which the person has reason to believe, or ought to know, are diseased. 15

(2) This section does not prevent the sale of diseased stock which an order under section 8 (1) (b) requires to be removed either to the place of the sale or to another place from the place of the sale. 20

(3) This section does not prevent the sale of stock diseased only with footrot, sheep lice or *Brucella ovis* infection (or only with more than one of those diseases), if the sale takes place at a sale approved by a Senior Field Veterinary Officer for stock infected only with one or more of those diseases. 25

Maximum penalty: 200 penalty units.

(4) In this section, “sell” includes offer for sale, assist in selling and attempt to sell.

Notice of public sale in quarantine area

20BA. A person must not hold a public sale of stock (even if the stock are not diseased) within a quarantine area if 14 days’ notice in writing of the sale has not been given to an inspector. 30

Maximum penalty: 100 penalty units.

*Stock Diseases (Amendment) 1994*SCHEDULE 1—AMENDMENTS—*continued*(18) Section 20C (**Movement of stock**):

(a) Omit section 20C (1) (c), insert instead:

- 5 (c) into, within or out of a quarantine area or from infected land; or
- (d) if an inspector has ordered the stock to be tested under section 7 (1) (bii), the stock have not yet been tested in accordance with that order and an inspector has not given permission for the stock to be moved; or
- 10 (e) otherwise in contravention of this Act or the regulations.

(b) Omit section 20C (3), insert instead:

15 (3) A person does not commit an offence against this section by doing anything in accordance with a permit under section 7 (6) or an order under section 8 (1) (b) or if the person moves stock in accordance with the following conditions:

- 20 (a) the stock are infected only with footrot, sheep lice or *Brucella ovis* infection (or only with more than one of those diseases); and
- (b) the stock are transported in a vehicle directly to an abattoir for the slaughter of the stock or directly to a sale approved by a Senior Field Veterinary Officer for stock infected only with one or more of those diseases; and
- 25 (c) the stock are accompanied by a transported stock statement under the Rural Lands Protection Act 1989.

30 (4) For the purposes of subsection (2) (c), the holder of an authority under the Rural Lands Protection Act 1989 to walk or graze stock on a travelling stock reserve is not an occupier of that reserve.

35 (5) The owner of a vehicle in which infected stock are transported in compliance with a permit or order (as referred to in subsection (3)) and any person having custody or control of the vehicle are guilty of an offence against this Act if any manure, hair and other matter which is, or can harbour, a disease or disease organism have not been cleaned from the vehicle immediately after the stock have left the vehicle.

Maximum penalty: 20 penalty units.

*Stock Diseases (Amendment) 1994*SCHEDULE 1—AMENDMENTS—*continued*(19) Section 20D (**Straying stock**):

From section 20D (1), omit “within a quarantine area or protected area”, insert instead “within or out of a quarantine area or within a protected area”.

5

(20) Section 20F (**Interfering with a quarantine fence, gate or notice**):

Before “Maximum penalty”, insert:

(2) A person must not remove or interfere with a notice displayed by an inspector under this Act, unless the person is an inspector or does so with the authority of an inspector.

10

(21) Sections 20FA, 20FB:

After section 20F, insert:

Treatment or seizure of stock

20FA. (1) A person must carry out treatment ordered by an inspector, or prescribed by or under this Act, in accordance with the directions (if any) given to the person by an inspector.

15

(2) A person must not remove or attempt to remove a chemical or solution from stock to which it has been applied as part of a treatment ordered by an inspector or prescribed by or under this Act, unless the person is an inspector or does so with the authority of an inspector.

20

(3) A person must not recover, attempt to recover, or aid or permit another person to recover or attempt to recover any stock, carcass, fodder or other thing which an inspector has detained or taken possession of under this Act, unless the person is an inspector or does so with the authority of an inspector.

25

Maximum penalty: 100 penalty units.

30

Feeding of prohibited substance to stock

20FB. (1) A person must not feed a prohibited substance to stock or cause or permit stock to feed on a prohibited substance.

(2) The owner and any person in charge of stock must take all steps that are reasonably practicable to prevent stock from having access to a prohibited substance.

35

Stock Diseases (Amendment) 1994

SCHEDULE 1—AMENDMENTS—*continued*

(3) This section does not apply in relation to stock prescribed by the regulations or in the circumstances (if any) prescribed by the regulations.

5 (4) In this section, “**prohibited substance**” means a substance prescribed by the regulations as a prohibited substance.

Maximum penalty: 100 penalty units.

10 (22) Section 20G (**Person must not deface brand or mark with yellow pigment**):

From section 20G (1), omit “alter or deface a brand”, insert instead “alter, deface or remove a brand (or mark)”.

(23) Section 20I:

Omit the section, insert instead:

15 **Obstruction**

20I. (1) A person must not:

- 20 (a) assault or threaten an inspector in the exercise of the inspector’s powers under this Act; or
- (b) assault or threaten a person assisting an inspector in the exercise of those powers; or
- (c) threaten any person because the person has been questioned by, or who has furnished information or records to, an inspector in the exercise of those powers; or
- 25 (d) impersonate an inspector.

Maximum penalty: 200 penalty units.

(2) A person must not, without reasonable excuse:

- 30 (a) obstruct or hinder an inspector in the exercise of the inspector’s powers under this Act; or
- (b) obstruct or hinder a person assisting an inspector in the exercise of those powers; or
- (c) prevent or attempt to prevent a person from giving information to or being questioned by an inspector acting in the exercise of those powers.

35 Maximum penalty: 100 penalty units.

*Stock Diseases (Amendment) 1994*SCHEDULE 1—AMENDMENTS—*continued*

- (24) Section 23 (**Regulations**):
- (a) Omit section 23 (1) (g) and (v), (1A) and (1C).
 - (b) From section 23 (1) (m), omit “stock are found or are pastured or kept”, insert instead “there are stock”. 5
 - (c) From section 23 (1) (n), omit “are depastured or kept”, insert instead “there are or have been”.
 - (d) From section 23 (1) (t), omit “in respect of any disease”, insert instead “or tested in respect of any disease or which there is reason to suspect are infected”. 10
- (25) Section 24:
- After section 23, insert:
- Savings, transitional and other provisions**
24. Schedule 2 has effect.
- (26) Schedule 2: 15
- After Schedule 1, insert:
- SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS**
- (Sec. 24)
- Part 1—Preliminary** 20
- Regulations**
1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
- Stock Diseases (Amendment) Act 1994 25
- (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as: 30

Stock Diseases (Amendment) 1994

SCHEDULE 1—AMENDMENTS—*continued*

5 (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done, or omitted to be done, before the date of its publication.

10 **Part 2—Provisions consequent on the enactment of the Stock Diseases (Amendment) Act 1994**

Definition

2. In this Part, “1994 Act” means the Stock Diseases (Amendment) Act 1994.

15 **Inspectors**

3. A person who was an inspector immediately before section 6 (1) was replaced by the 1994 Act continues in office as if the person had been appointed under that subsection (as so replaced).

20 **Occupier’s notice as to diseased stock**

4. (1) A notice given in accordance with section 9 before the amendment of that section by the 1994 Act is taken to have been given in accordance with section 9 as so amended.

25 (2) If, before the amendment of section 9 by the 1994 Act, a person complied with that section to the extent of providing verbal notice by virtue of section 9 (4), that section is taken to continue in force in relation to that notice as if it had not been so amended until the time for confirming the notice would have elapsed had the section not been so amended.

30 **Notice to stop vehicle**

35 5. A type of traffic sign that, immediately before the amendment of section 12A by the 1994 Act, was a prescribed type of traffic sign under that section is taken to have been approved by the Chief, Division of Animal Industries on the day when that amendment commenced.

Stock Diseases (Amendment) 1994

SCHEDULE 1—AMENDMENTS—*continued***Notice to fence land**

6. (1) A requirement in force under section 13 immediately before the amendment of that section by the 1994 Act and contained in a notification published in the Gazette continues in force on and from the commencement of that amendment as if it had been contained in a notice under section 13 as so amended. 5

(2) Any stock specified in such a notification is taken to have been specified as a class of stock for the purposes of the notice. 10

(3) When a requirement in a notification continues in force as a requirement in a notice, the notice is taken to specify a reasonable time from the time when the notification was published as the time for the fencing to be carried out. 15

(4) An order given by notice by an inspector, and in force, under section 13 before the amendment of that section by the 1994 Act continues in force under that section as so amended on and from the commencement of that amendment.

(5) On and from that commencement, the time specified in an order saved under subclause (4) is taken to run from the day when that order was given before the commencement. 20

Destruction order

7. An order by the Minister in force under section 17 immediately before the replacement of that section by the 1994 Act continues in force under section 17 as so replaced. 25
