

FIRST PRINT

STOCK MEDICINES (AMENDMENT) BILL 1993

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Stock (Chemical Residues) Amendment Bill 1993 is cognate with this Bill. The objects of this Bill are:

- (a) to extend the powers of the Director-General of the Department of Agriculture ("the Director-General") in relation to the sale and use of stock medicines; and
- (b) to impose conditions on the exercise of an inspector's powers of entry; and
- (c) to enable the Director-General to waive certain fees; and
- (d) to make other provisions of a minor, consequential or ancillary nature.

The extension of the powers of the Director-General in relation to stock medicines will be available for any stock medicines (such as hormone growth promotants) which may have an adverse effect on trade.

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 Medicines Act 1989 as set out in Schedules 1 and 2.

SCHEDULE 1—AMENDMENTS RELATING TO THE SALE AND USE OF STOCK MEDICINES

Schedule 1 (1):

- (a) includes the possibility of an adverse effect on trade in stock, or a product derived from stock, among the grounds on which the Director-General may make certain regulatory orders relating to stock medicines; and
- (b) enables the Director-General to make orders in connection with the treatment of stock with a stock medicine (including orders relating to the identification of treated stock and the keeping of records of treated stock).

Stock Medicines (Amendment) 1993

Schedule 1 (2) enables an inspector:

- (a) to require the production of certain records relating to stock medicines and the treatment of stock and to take copies of them, or extracts from them; and
- (b) to give directions for or with respect to the return to the manufacturer or supplier of articles seized by the inspector.

Schedule 1 (3) sets out the conditions on which the exercise of an inspector's powers of entry are to be subject.

SCHEDULE 2—OTHER AMENDMENTS

Schedule 2 (1) removes horses from the list of species classified by the Stock Medicines Act 1989 as food producing species.

Schedule 2 (2) and (3) enable the Director-General to waive the fee for an application for, or for the renewal of, the registration of a stock medicine in certain circumstances.

Schedule 2 (4) removes a limitation on the classes of persons who may be authorised to act as inspectors.

Schedule 2 (5) enables a prosecution for an offence to be initiated by a person authorised by the Minister, instead of the consent of the Minister being required in each case.

Schedule 2 (6) amends the Schedule of savings and transitional provisions:

- (a) by allowing the Director-General (instead of the applicant) to determine the length of a shortened renewal of registration if the Director-General considers it is likely to be affected by the enactment of proposed Commonwealth legislation; and
 - (b) by allowing the Director-General to extend a current registration period for up to 12 months if the Director-General considers that the registration period is likely to be affected by the enactment of proposed Commonwealth legislation.
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FIRST PRINT

STOCK MEDICINES (AMENDMENT) BILL 1993

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Stock Medicines Act 1989 No. 182

SCHEDULE 1—AMENDMENTS RELATING TO THE SALE AND USE OF
STOCK MEDICINES

SCHEDULE 2—OTHER AMENDMENTS

STOCK MEDICINES (AMENDMENT) BILL 1993

NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to amend the Stock Medicines Act 1989 in order to further regulate the sale and use of stock medicines; to add to the provisions relating to powers of entry; to enable certain fees to be waived; and for other purposes.

See also Stock (Chemical Residues) Amendment Bill 1993.

*Stock Medicines (Amendment) 1993***The Legislature of New South Wales enacts:****Short title**

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

5 Commencement

2. This Act commences on the date of assent.

Amendment of Stock Medicines Act 1989 No. 182

3. The Stock Medicines Act 1989 is amended as set out in Schedules 1 and 2.

10 **SCHEDULE 1—AMENDMENTS RELATING TO THE SALE
AND USE OF STOCK MEDICINES**

(Sec. 3)

(1) Section 46 (**Supply and use bans and recall orders**):

(a) At the end of section 46 (1) (c), insert:

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; or

(d) to have an adverse effect on trade in stock or a product derived from stock.

(b) After section 46 (2), insert:

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(2A) Without affecting the generality of subsection (2), an order under this section made in relation to a specified stock medicine or a stock medicine of a specified class may make provision for or with respect to:

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(a) the identification or marking of stock treated with the stock medicine, including the use of particular colours of tags required under the Stock Diseases Act 1923; or

(b) the making and keeping of records relating to, and to the treatment given by, the stock medicine; or

30

(c) the information or documentation required to accompany the stock medicine when sold, or to accompany stock when sold or consigned for sale; or

(d) the disposal of the stock medicine in accordance with requirements of the Director-General; or

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SCHEDULE 1—AMENDMENTS RELATING TO THE SALE AND
USE OF STOCK MEDICINES—*continued*

- (e) the holding of an authority for the purchase, sale or use of the stock medicine, the fixing of a fee for such an authority and the waiver of such a fee; or 5
 - (f) the prohibition of the use of the stock medicine for a particular purpose or for any purpose.
- (2) Section 50 (**Powers of inspectors**):
- (a) After section 50 (1) (b), insert:
 - (b1) require the production of, inspect, and take copies of or extracts from, any record the keeping of which is required by this Act, the regulations or a permit, order or authority in force under section 32, 34 or 46. 10
 - (b) After section 50 (1) (g), insert:
 - (g1) despite section 52, give directions for the return to the manufacturer or supplier of any substance, article or container seized under paragraph (e); 15
 - (c) Omit section 50 (2).
- (3) Section 50A:
- After section 50, insert: 20
- Conditions of exercise by inspector of power of entry**
- 50A. (1) The power conferred on an inspector by section 50 to enter any land, building, premises or place may not be exercised unless the inspector:
- (a) has been issued by the Director-General with a certificate of authority; and 25
 - (b) gives reasonable notice to the occupier of the land, building, premises or place, unless the giving of notice would defeat the purpose for which it is intended to exercise the power; and 30
 - (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 occupation of the land, building, premises or place; and 35
 - (e) uses no more force than is reasonably necessary to effect the entry.

Stock Medicines (Amendment) 1993

SCHEDULE 1—AMENDMENTS RELATING TO THE SALE AND USE OF STOCK MEDICINES—*continued*

- (2) A certificate of authority must:
- 5 (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
- 10 (d) state the date (if any) on which it expires; and
- (e) state that the powers do not authorise entry into any part of premises used for residential purposes, unless the occupier consents; and
- 15 (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.

20 (4) If damage is caused by an inspector exercising a power to enter any land, building, premises or place, a reasonable amount of compensation is recoverable as a debt owed by the employer of the inspector to the owner of the land, building, premises or place, unless the exercise of the power was obstructed.

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

(6) In this section:

30 “**certificate of authority**” means a certificate that, to enable an officer to exercise a power conferred by this section, is issued to the inspector by the Director-General.

SCHEDULE 2—OTHER AMENDMENTS

(Sec. 3)

- (1) Section 3 (**Definitions**):
- 35 (a) From the definition of “Director-General” in section 3 (1), omit “and Fisheries”.
- (b) From the definition of “food producing species” in section 3 (1), omit “horses,”.

Stock Medicines (Amendment) 1993

SCHEDULE 2—OTHER AMENDMENTS—*continued*

- (2) Section 7 (**Application for registration of stock medicines**):
 After section 7 (3), insert:
 (4) The Director-General may waive the fees prescribed under subsection (3) if the application is accompanied by a certificate of clearance for the stock medicine. 5
- (3) Section 8 (**Application for renewal of registration of stock medicines**):
 After section 8 (4), insert:
 (5) The Director-General may waive the fee prescribed under subsection (4) (b) if: 10
 (a) a certificate of clearance was issued for the stock medicine; and
 (b) the Director-General has not been notified by the clearance authority that the certificate of clearance has been revoked. 15
- (4) Section 48 (**Authorisation of inspectors**):
 Omit “a member of the Public Service, or of the Public Service of the Commonwealth, or a member of the Police Force”, insert instead “a person”. 20
- (5) Section 60 (**Proceedings for offences**):
 From section 60 (5), omit “with the consent of the Minister”, insert instead “by a person authorised by the Minister either generally or in a particular case”.
- (6) Schedule 2 (**Savings and transitional provisions**): 25
 (a) At the end of clause 2 (1), insert:
 Stock Medicines (Amendment) Act 1993.
 (b) After clause 13, insert:
 PART 3—SPECIAL PROVISIONS RELATING TO PERIOD OF REGISTRATION 30
 Renewal of registration of stock medicine
 14. (1) Despite any other provision of this Act, renewal of the registration of a stock medicine may be for a period determined by the Director-General that is shorter than the

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SCHEDULE 2—OTHER AMENDMENTS—*continued*

registration period applied for, if the Director-General considers that the period applied for is likely to be affected by proposed Commonwealth legislation.

- 5 (2) In any such case, the Director-General may make a proportionate reduction in the fee payable for the registration period applied for.

Extension of registration period for stock medicine

- 10 15. Despite any other provision of this Act, the Director-General may extend for a period not longer than 12 months the current period of registration of a stock medicine, if the Director-General considers that the existing registration period is likely to be affected by proposed Commonwealth legislation.
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STOCK MEDICINES (AMENDMENT) BILL 1993

STOCK (CHEMICAL RESIDUES) AMENDMENT BILL 1993

SECOND READING SPEECH

Mr President

I move that these Bills be read a second time.

These Bills provide a legislative framework for the control of use of stock medicines in New South Wales where it becomes necessary to implement control measures as a matter of urgency. For general use of stock medicines the Stock Medicines Act 1989 will continue to operate but where controls which are peculiar to a particular stock medicine or class of stock medicine are required the provisions of these Bills will be brought into play.

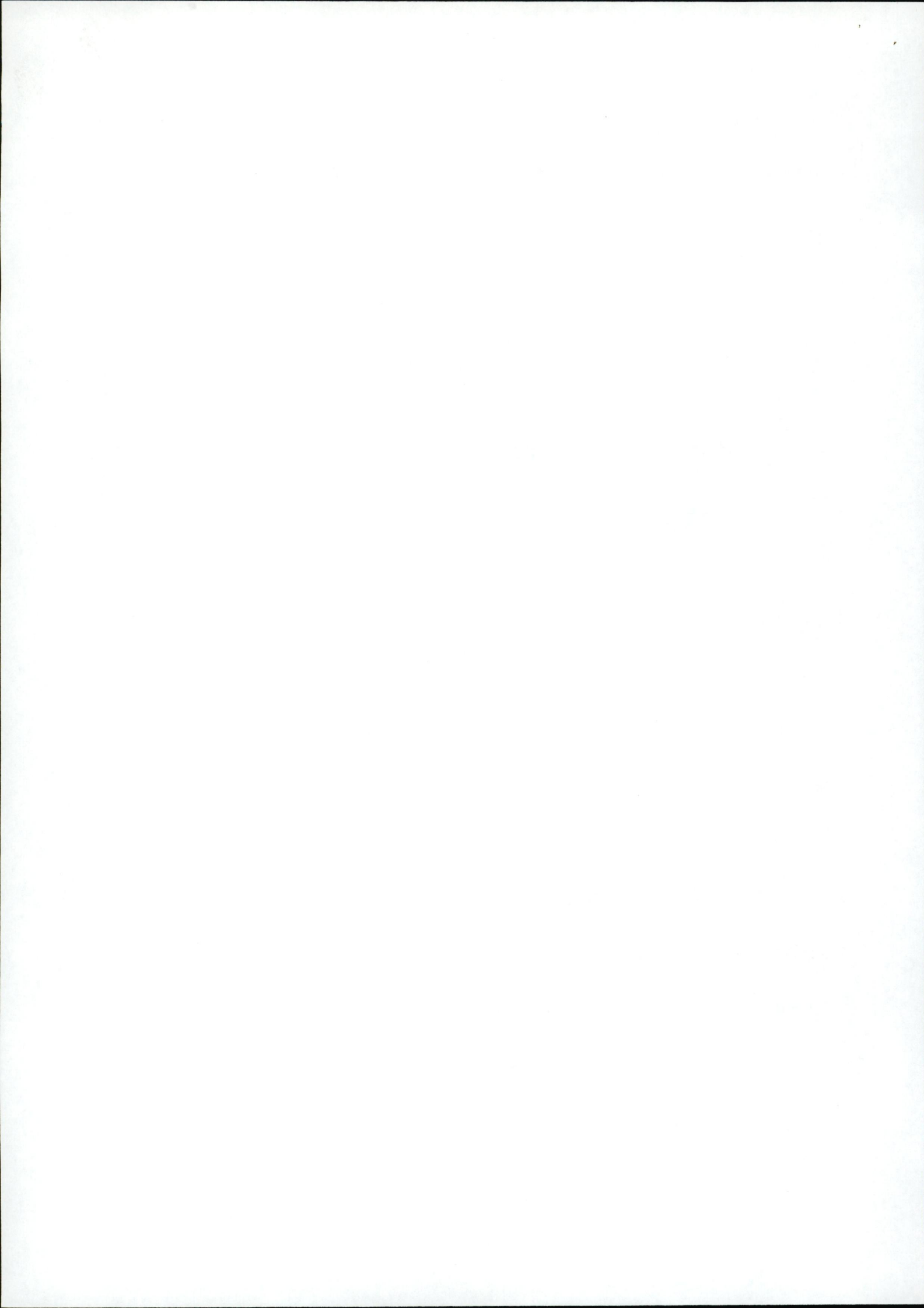
Honourable members may be aware of publicity recently given to requirements imposed by the European Community on Australian beef and offal exports with regard to the use of Hormonal Growth Promotants, or HGPs.



The EC has indicated that it is dissatisfied with the system by which cattle in Australia which have been treated with HGP are identified. The EC has stipulated that beef products entering the EC must originate from stock which have never been treated with HGP. The EC requires that countries accredited for export to the EC maintain a system for identifying HGP treated stock which is based in legislation and which is both auditable and enforceable, with severe penalties for producers who fail to comply.

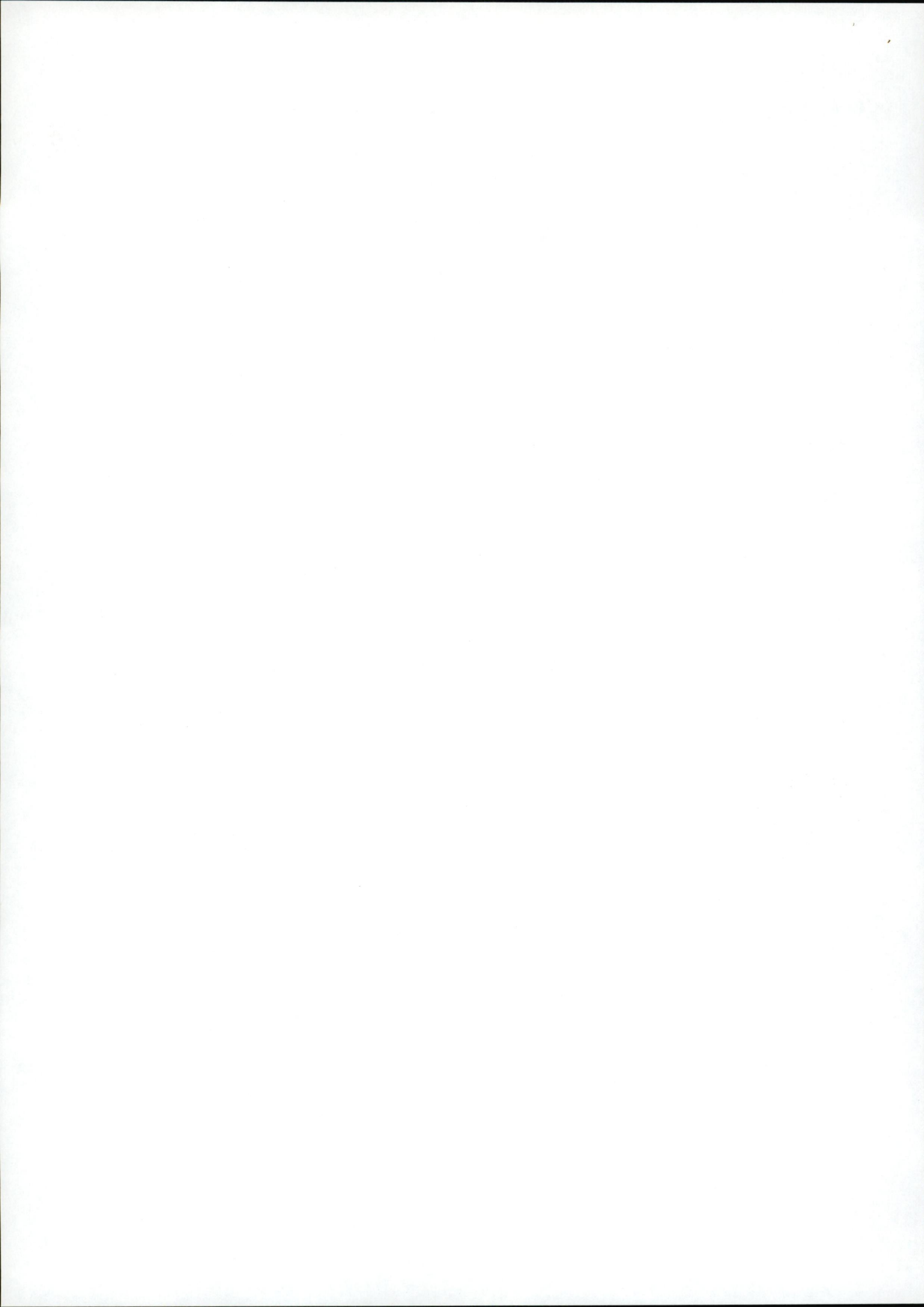
Australia currently exports each year approximately 85 million dollars worth of beef products to the EC. Approximately 30%, or 26 million dollars worth of production originates in New South Wales.

In 1989 a national certification system was introduced for HGP treated and untreated cattle. An EC reviewer in October/November 1992 assessed this system and found serious shortcomings. A new nationally agreed scheme has since been developed for which these legislative amendments are necessary.



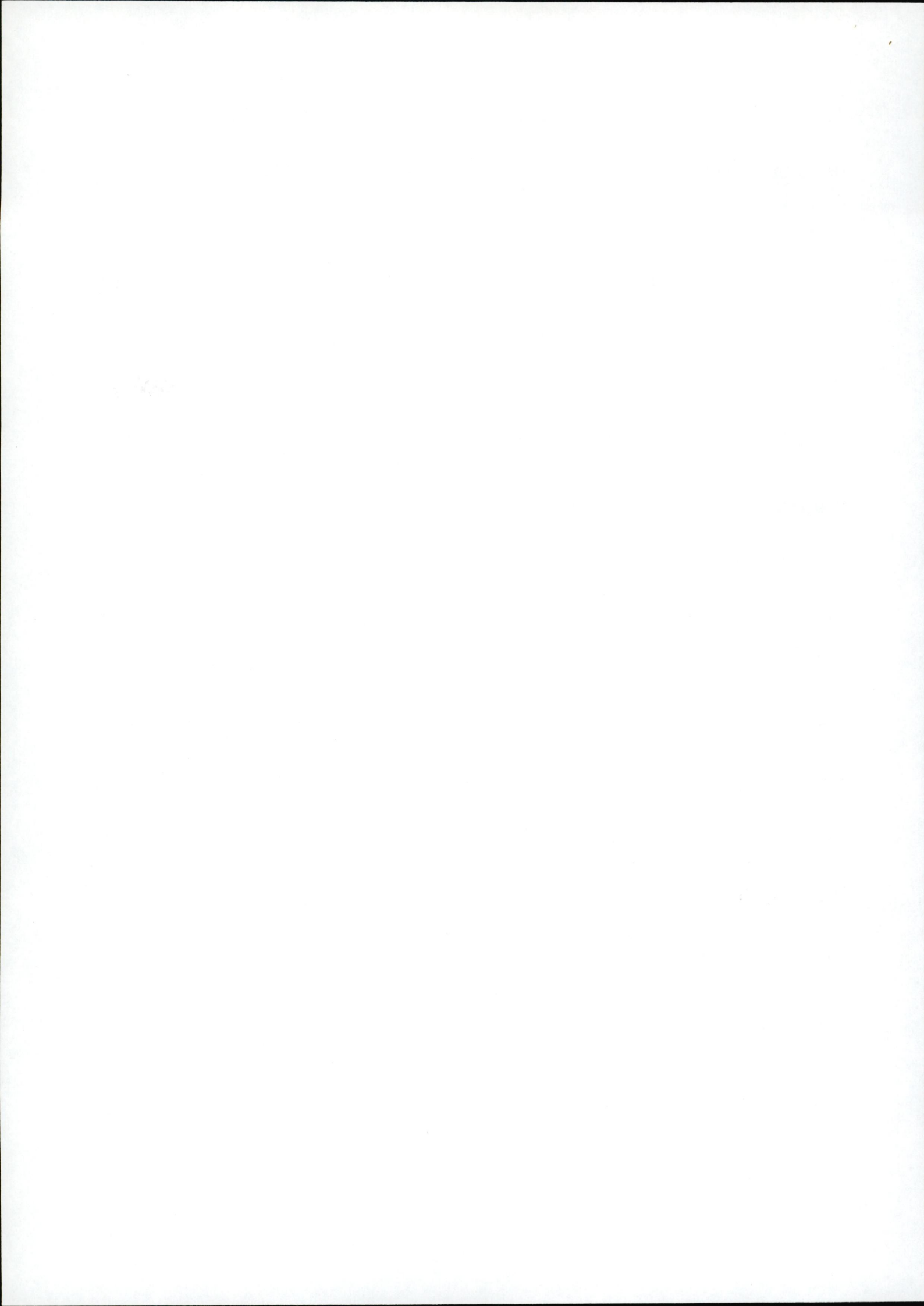
Another EC review team visited Australia in December 1992 and endorsed this new proposal. This endorsement means that Australia can continue to provide product to the EC until June 1993. In early May 1993 a further EC review team will visit Australia to ensure that our new scheme is in operation. If this review concludes that Australia has failed to introduce the agreed scheme then our 85 million dollar per annum beef exports to the EC will cease in June 1993.

The requirement of the EC with respect to HGP's is just one example of the increasingly specific regulatory requirements which are being imposed on the use of stock medicines by our trading partners as a condition for continued access to their markets. Similar strict requirements may be required in the future to regulate the use of other stock medicines both in the domestic and export markets.



The Australian cattle industry, by retaining access to the EC market, will maintain its reputation as a credible, market responsive industry which can adjust to new challenges. The changes will also allow other sectors of the cattle industry to continue to use HGP's and to obtain the benefit of these products.

The regulatory controls required for the use of specific stock medicines, or to satisfy the requirement of particular markets cannot be anticipated precisely. Orders under the Stock Medicines Act should provide for necessary controls to be imposed quickly at any or all points from the sale of products to their eventual use. The proposed amendments provide for these controls as well as requiring registration of wholesalers and retailers of HGP's. They also require permanent identification of HGP treated cattle by ear punching.

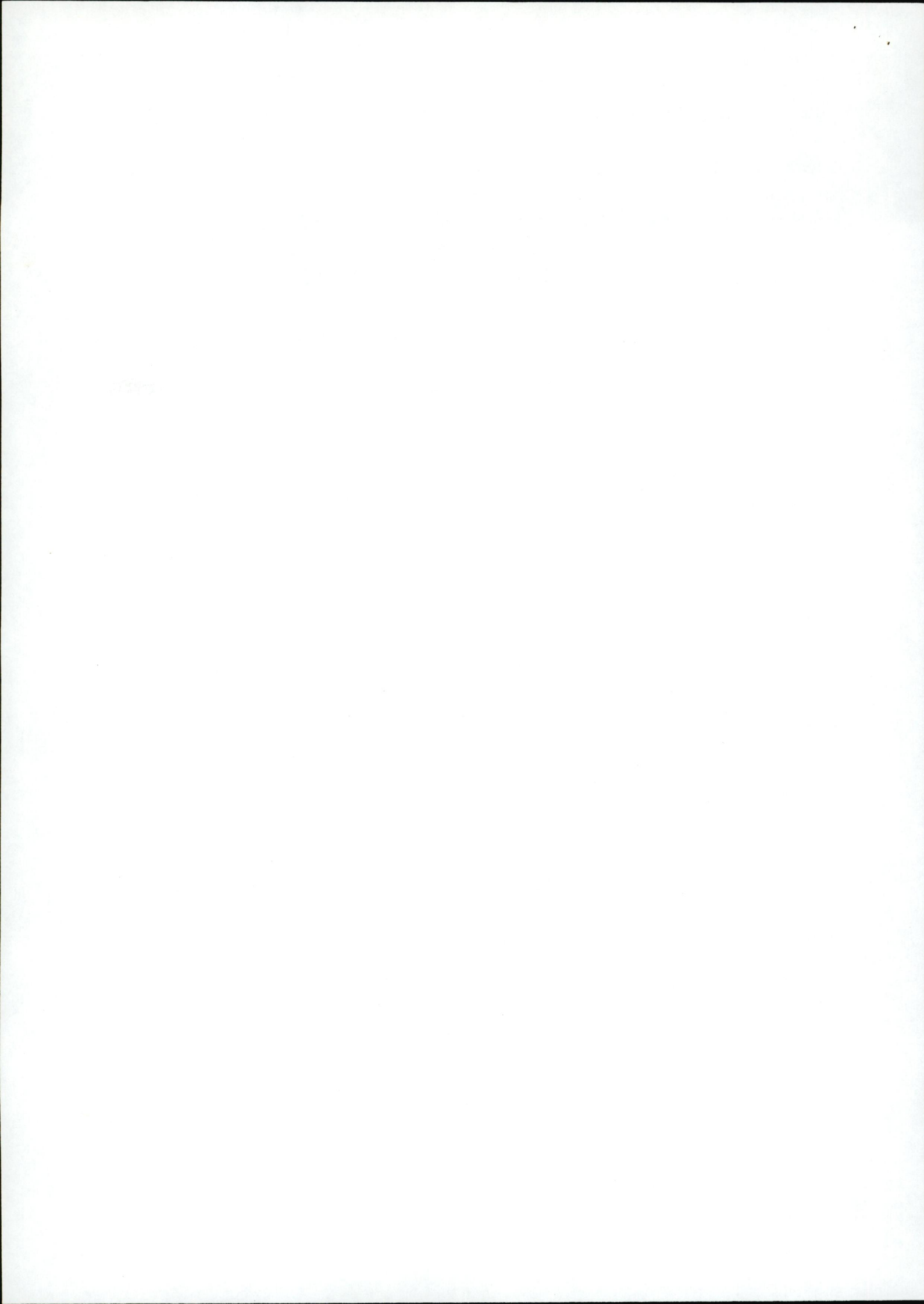


The effect on trade with another country is a legitimate reason to impose additional regulatory controls on the sale and use of stock medicines. This has been recognised in the Commonwealth Agricultural And Veterinary Chemicals Act 1988 where a clearance to register an agricultural or veterinary chemical product can only be issued if the Australian Agricultural and Veterinary Chemicals Council is satisfied that the product would not unduly prejudice trade with another country.

The Stock (Chemical Residues) Act contains many of the powers necessary to enforce a credible declaration system that differentiates between HGP treated and non treated animals. The current definition of a residue as defined under this Act is insufficient, however, to cover HGPs. It is necessary to ensure that HGPs and other substances which may impact on trade in the future can be dealt with under this Act.



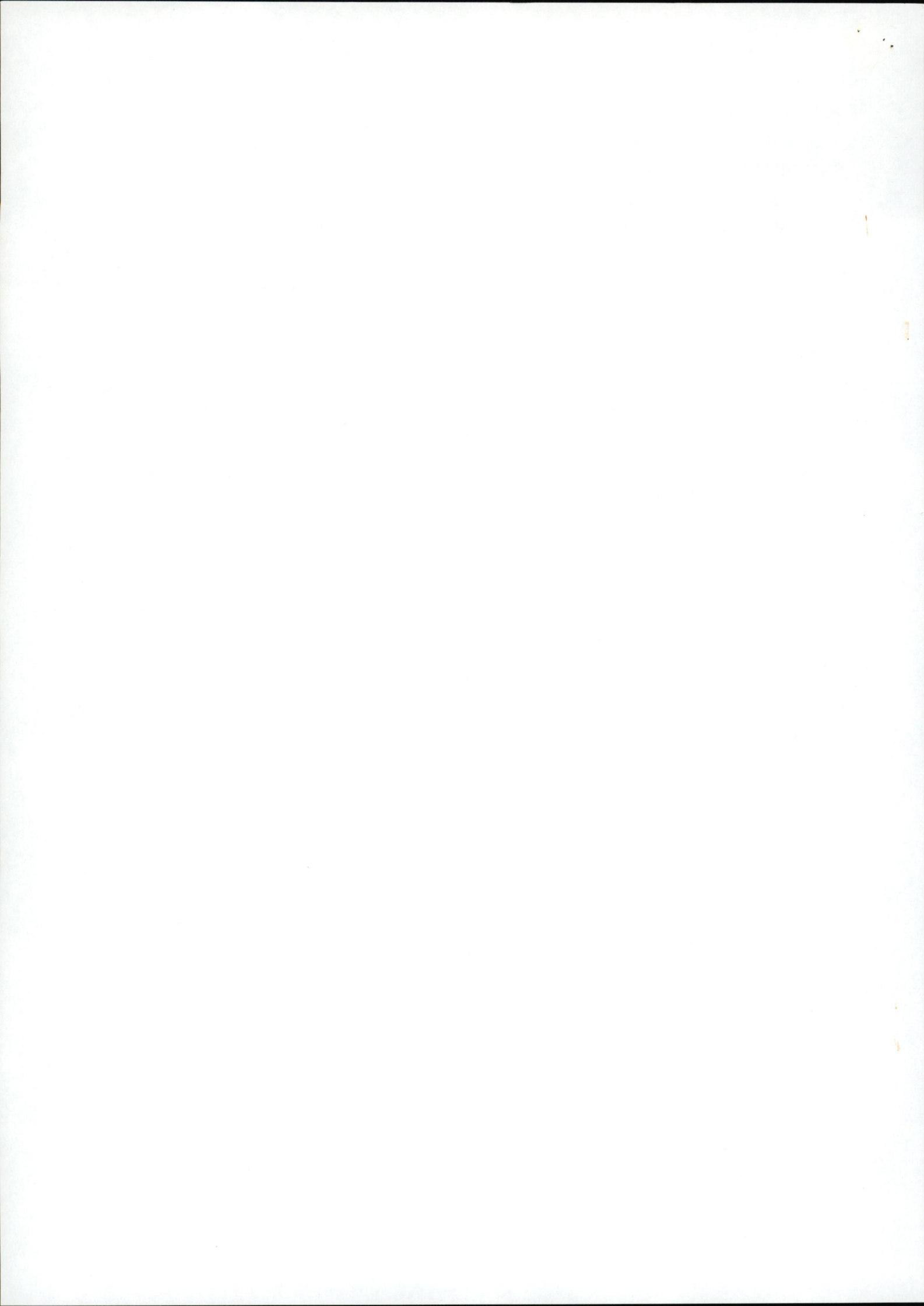
The recommended amendments are required to give immediate effect to an enhanced regulatory mechanism for the control of HGP's which makes it an offence to make a false declaration with regard to residue status of livestock, and provide severe penalties for such an offence. This mechanism has been formulated by the Animal Health Committee of the Standing Committee on Agriculture for national implementation and is the result of extensive industry consultation. The formulation of these amendments has involved much industry consultation. Groups involved nationally have included the Cattle Council of Australia, the Agricultural and Veterinary Chemicals Association of Australia and the Veterinary Manufacturers and Distributors Association. Groups involved at the NSW level have included the NSW Stock and Station Agents Association, NSW Cattleman's Union, Executive Council of the Rural Lands Protection Boards, Meat Industry Authority, NSW Farmers Association and NSW Dairy Farmers Association.



The enhanced regulatory system for HGPs will require the establishment of an information database and associated administration as well as increased inspectorial activity in auditing key steps in the regulatory process.

The proposed amendments will allow all or part of the costs incurred in such administration to be recovered from Permit fees for those wholesalers and retailers who wish to trade in HGPs. These increased costs are likely to be passed on to the producer by way of price increases for HGP products.

I commend the Bills to the House.



STOCK MEDICINES (AMENDMENT) ACT 1993 No. 4

NEW SOUTH WALES

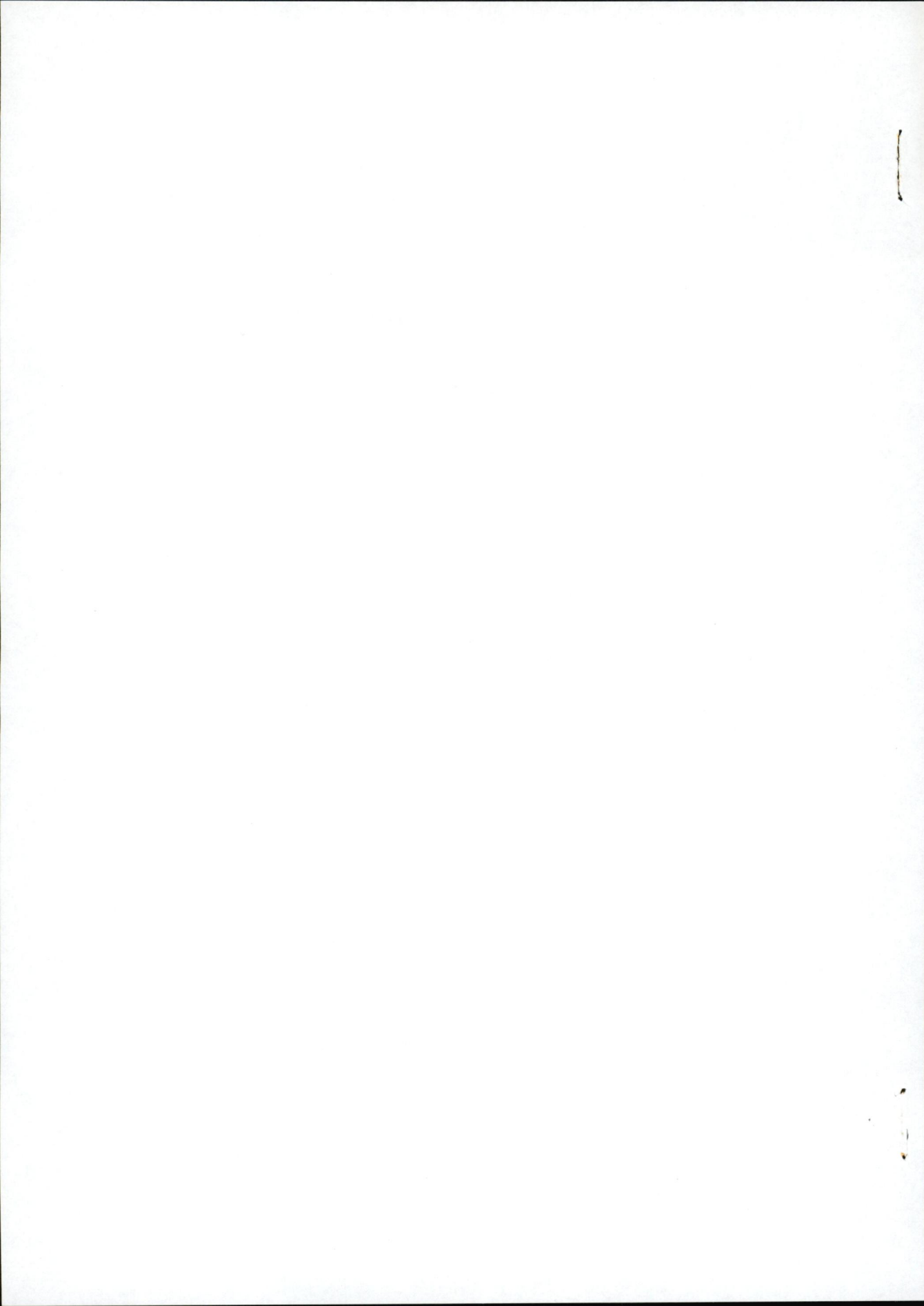


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SCHEDULE 2—OTHER AMENDMENTS



STOCK MEDICINES (AMENDMENT) ACT 1993 No. 4

NEW SOUTH WALES



Act No. 4, 1993

An Act to amend the Stock Medicines Act 1989 in order to further regulate the sale and use of stock medicines; to add to the provisions relating to powers of entry; to enable certain fees to be waived; and for other purposes. [Assented to 8 April 1993]

Stock Medicines (Amendment) Act 1993 No. 4

The Legislature of New South Wales enacts:

Short title

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

Commencement

2. This Act commences on the date of assent.

Amendment of Stock Medicines Act 1989 No. 182

3. The Stock Medicines Act 1989 is amended as set out in Schedules 1 and 2.

**SCHEDULE 1—AMENDMENTS RELATING TO THE SALE
AND USE OF STOCK MEDICINES**

(Sec. 3)

(1) Section 46 (**Supply and use bans and recall orders**):

(a) At the end of section 46 (1) (c), insert:

; or

(d) to have an adverse effect on trade in stock or a product derived from stock.

(b) After section 46 (2), insert:

(2A) Without affecting the generality of subsection (2), an order under this section made in relation to a specified stock medicine or a stock medicine of a specified class may make provision for or with respect to:

- (a) the identification or marking of stock treated with the stock medicine, including the use of particular colours of tags required under the Stock Diseases Act 1923; or
- (b) the making and keeping of records relating to, and to the treatment given by, the stock medicine; or
- (c) the information or documentation required to accompany the stock medicine when sold, or to accompany stock when sold or consigned for sale; or
- (d) the disposal of the stock medicine in accordance with requirements of the Director-General; or

Stock Medicines (Amendment) Act 1993 No. 4

SCHEDULE 1—AMENDMENTS RELATING TO THE SALE AND USE OF STOCK MEDICINES—*continued*

- (e) the holding of an authority for the purchase, sale or use of the stock medicine, the fixing of a fee for such an authority and the waiver of such a fee; or
 - (f) the prohibition of the use of the stock medicine for a particular purpose or for any purpose.
- (2) Section 50 (**Powers of inspectors**):
- (a) After section 50 (1) (b), insert:
 - (b1) require the production of, inspect, and take copies of or extracts from, any record the keeping of which is required by this Act, the regulations or a permit, order or authority in force under section 32, 34 or 46.
 - (b) After section 50 (1) (g), insert:
 - (g1) despite section 52, give directions for the return to the manufacturer or supplier of any substance, article or container seized under paragraph (e);
 - (c) Omit section 50 (2).
- (3) Section 50A:
- After section 50, insert:
- Conditions of exercise by inspector of power of entry**
- 50A. (1) The power conferred on an inspector by section 50 to enter any land, building, premises or place may not be exercised unless the inspector:
- (a) has been issued by the Director-General with a certificate of authority; and
 - (b) gives reasonable notice to the occupier of the land, building, premises or place, unless the giving of notice would defeat the purpose for which it is intended to exercise the power; 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 occupation of the land, building, premises or place; and
 - (e) uses no more force than is reasonably necessary to effect the entry.

Stock Medicines (Amendment) Act 1993 No. 4

SCHEDULE 1—AMENDMENTS RELATING TO THE SALE AND USE OF STOCK MEDICINES—*continued*

- (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 powers do not authorise entry into any part of premises used for residential purposes, unless the occupier consents; and
 - (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 to enter any land, building, premises or place, a reasonable amount of compensation is recoverable as a debt owed by the employer of the inspector to the owner of the land, building, premises or place, 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 officer to exercise a power conferred by this section, is issued to the inspector by the Director-General.

SCHEDULE 2—OTHER AMENDMENTS

(Sec. 3)

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

- (a) From the definition of “Director-General” in section 3 (1), omit “and Fisheries”.
- (b) From the definition of “food producing species” in section 3 (1), omit “horses,”.

Stock Medicines (Amendment) Act 1993 No. 4

SCHEDULE 2—OTHER AMENDMENTS—*continued*

(2) Section 7 (**Application for registration of stock medicines**):

After section 7 (3), insert:

(4) The Director-General may waive the fees prescribed under subsection (3) if the application is accompanied by a certificate of clearance for the stock medicine.

(3) Section 8 (**Application for renewal of registration of stock medicines**):

After section 8 (4), insert:

(5) The Director-General may waive the fee prescribed under subsection (4) (b) if:

(a) a certificate of clearance was issued for the stock medicine; and

(b) the Director-General has not been notified by the clearance authority that the certificate of clearance has been revoked.

(4) Section 48 (**Authorisation of inspectors**):

Omit “a member of the Public Service, or of the Public Service of the Commonwealth, or a member of the Police Force”, insert instead “a person”.

(5) Section 60 (**Proceedings for offences**):

From section 60 (5), omit “with the consent of the Minister”, insert instead “by a person authorised by the Minister either generally or in a particular case”.

(6) Schedule 2 (**Savings and transitional provisions**):

(a) At the end of clause 2 (1), insert:

Stock Medicines (Amendment) Act 1993.

(b) After clause 13, insert:

PART 3—SPECIAL PROVISIONS RELATING TO PERIOD OF REGISTRATION

Renewal of registration of stock medicine

14. (1) Despite any other provision of this Act, renewal of the registration of a stock medicine may be for a period determined by the Director-General that is shorter than the

Stock Medicines (Amendment) Act 1993 No. 4

SCHEDULE 2—OTHER AMENDMENTS—*continued*

registration period applied for, if the Director-General considers that the period applied for is likely to be affected by proposed Commonwealth legislation.

(2) In any such case, the Director-General may make a proportionate reduction in the fee payable for the registration period applied for.

Extension of registration period for stock medicine

15. Despite any other provision of this Act, the Director-General may extend for a period not longer than 12 months the current period of registration of a stock medicine, if the Director-General considers that the existing registration period is likely to be affected by proposed Commonwealth legislation.

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