

First print



New South Wales

## **Stock (Chemical Residues) Amendment Bill 1995**

### **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

#### **Overview of Bill**

The *Stock (Chemical Residues) Act 1975* (the "principal Act") has to date been concerned with the effect on stock of chemicals from which residues accumulate in their bodies, thereby making the stock unfit for consumption as human food. The principal Act provides measures to contain chemical contamination and to prevent the slaughter of contaminated stock for sale as food.

There are, however, ways in which stock can be affected by treatment with or exposure to chemical substances, even though no chemical residue can be detected (for example, by hormone treatment). Also, there are some residues that diminish the sale value of the stock even though they are not rendered unfit for human consumption. This Bill aims, therefore, to broaden the scope of the Act in two ways. Firstly, control measures under the principal Act are to be made available in relation to stock that may be classified as chemically affected whether or not a residue exists or is detectable. At the same time,

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the basis on which the effect of chemicals on stock is taken to require action will be broadened to include cases where the stock are a danger to other animals or the environment and cases where their condition is prejudicial to trade.

The Bill provides for other measures in furtherance of its general objects and makes other amendments of a minor character. These are explained in detail later in this note.

### Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be proclaimed.

**Clause 3** is a formal provision giving effect to the amendments to the *Stock (Chemical Residues) Act 1975* set out in Schedule 1.

### Schedule 1 Amendments

#### Chemically affected stock

**Schedule 1 [5]** repeals and substitutes section 4 of the principal Act. Under the new section:

- chemical residues will be prescribed by order of the Minister and regard will be had, in formulating such prescriptions, to the wider class of harmful effects discussed above, namely, the effects on animal and human health, the effects on the environment and the effects on trade in the stock concerned.
- stock medicines and other chemical treatments used on stock that are believed to be harmful to trade will continue to be prescribed by order of the Minister as is done presently under section 12A of the principal Act (which the proposed section replaces), but the Minister will also be able to prescribe substances that are neither stock medicines nor treatments. In some cases the substance may simply be one to which the stock have been exposed.

Provision is also made in the new section for adoption of Commonwealth or other standards for residue concentration limits.

**Schedule 1 [1]** and **[2]** amend the long title of the principal Act as a consequence of the enactment of the new section 4.

**Schedule 1 [3], [4], [6], [7]** and **[15]** are also consequential.

### **Records that must be produced to an inspector on demand**

**Schedule 1 [3]** amends the definition section of the principal Act so as to provide a definition of *record* that includes any book, account or other information that is electronically or otherwise stored.

### **Exercise by officers of powers of detention of stock**

The effect of **Schedule 1 [8], [9]–[12], [17] and [18]** is to amend several provisions of the principal Act so as to avoid the need to make regulations in order to authorise officers of the Department of Agriculture to perform functions under section 7, 8 or 9 of the principal Act.

### **Requirements on importation of stock**

**Schedule 1 [13]** enacts a new section 9A which allows regulations under the principal Act to prescribe requirements in relation to the movement of stock.

### **Reporting of results of tests carried out on stock**

**Schedule 1 [16]** enacts a new section 12C which requires laboratory test results to be submitted to the Minister when the test confirms that stock are chemically affected and allows the Minister to call for other results to be produced.

### **False information in connection with the principal Act or the sale of stock**

**Schedule 1 [16]** enacts a new section 12D which prohibits the giving of false information by any person:

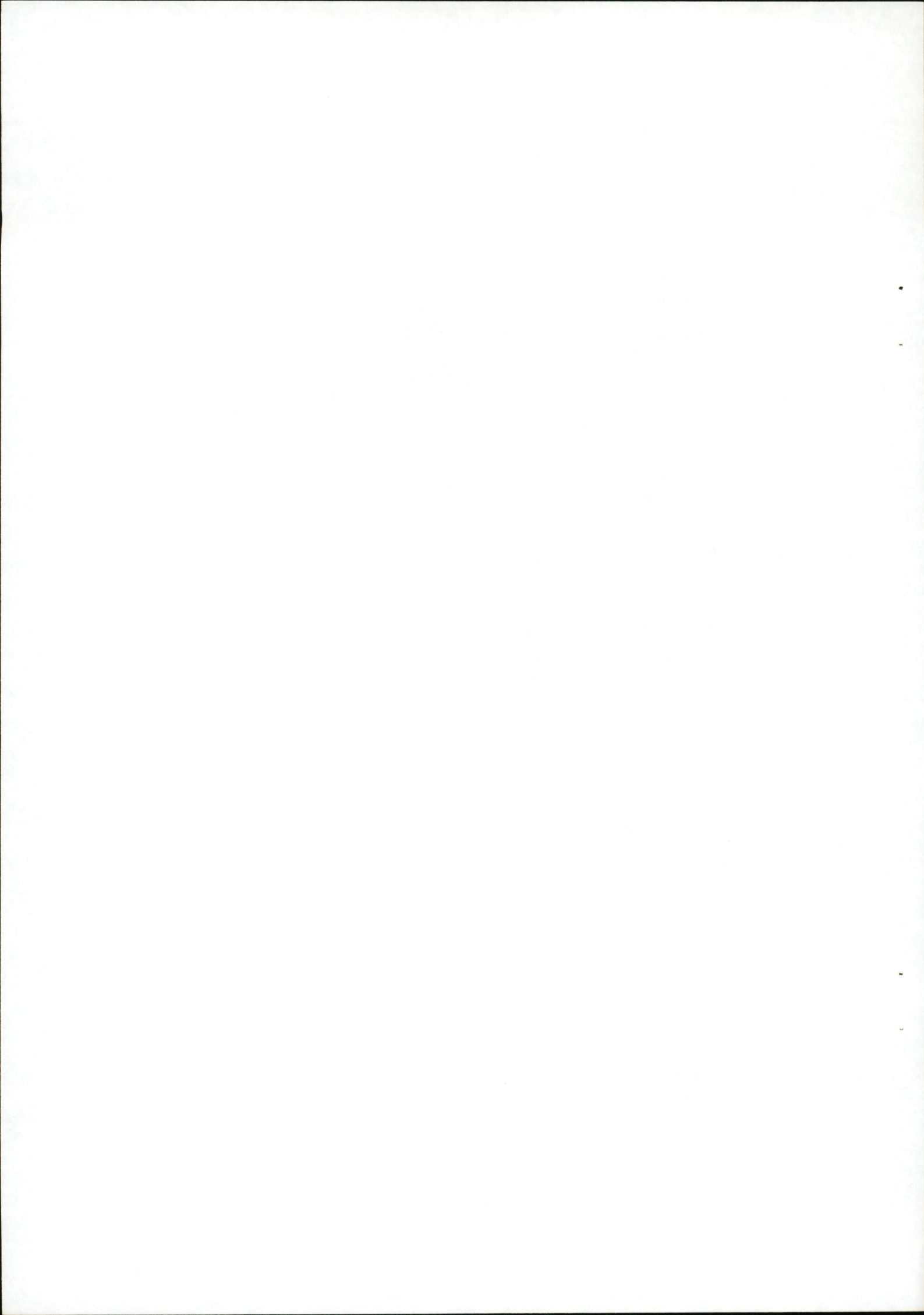
- in connection with an application or otherwise under the principal Act, or
- in the course of or in connection with the sale or disposition of any stock.

### **Immunity from suit for persons giving advice**

**Schedule 1 [16]** enacts a new section 12E which protects the Minister and any person concerned in the administration of the principal Act from liability in respect of information given by them about stock that are or may be chemically affected. It also affords a similar protection to the owners of laboratories and other persons in connection with information supplied from a laboratory or other facility about whether stock are chemically affected.

### **Savings and transitional provisions**

**Schedule 1 [19]** effects certain savings and transitional provisions as a consequence of the enactment of the proposed Act.



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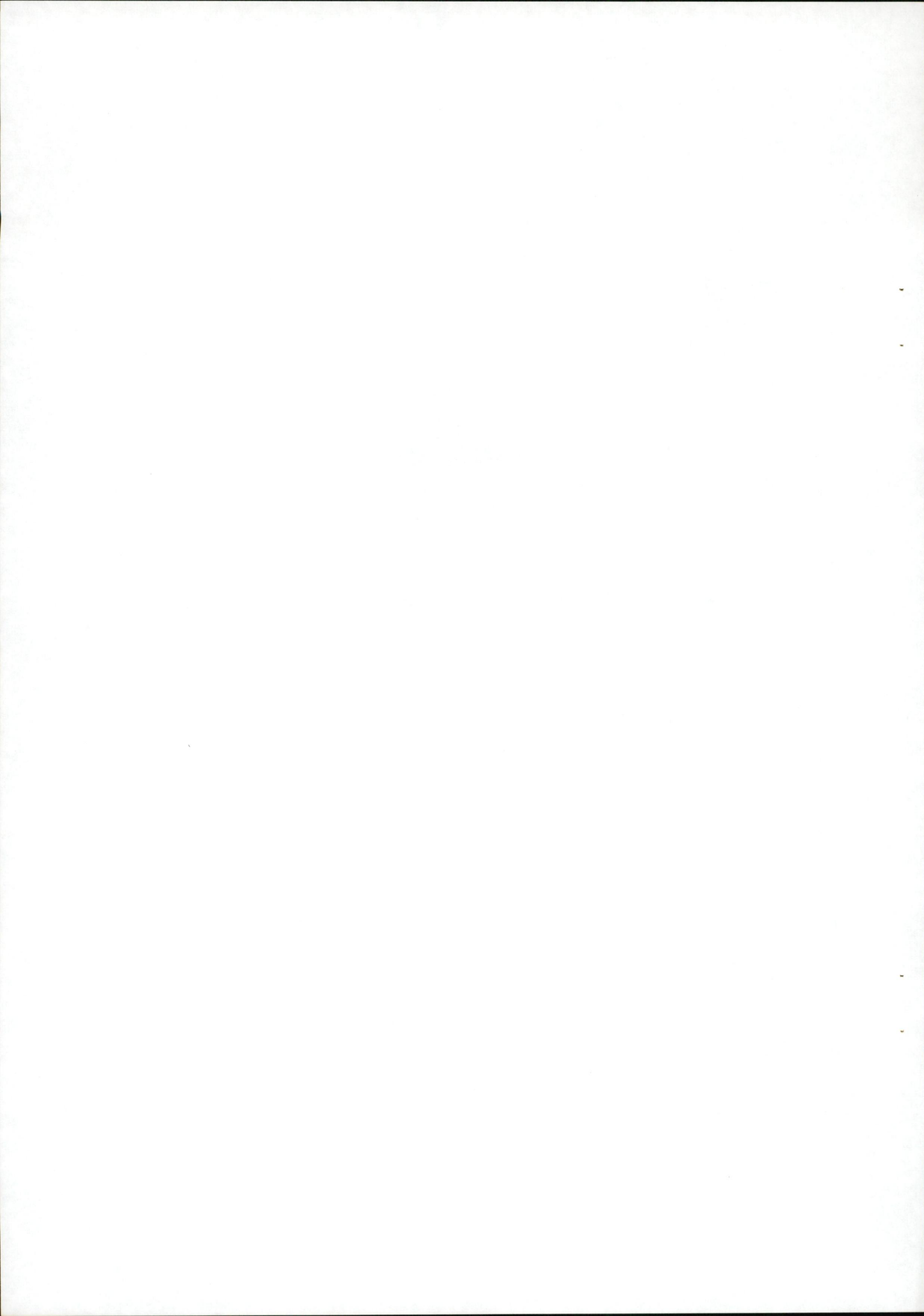
# Stock (Chemical Residues) Amendment Bill 1995

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New South Wales

## **Stock (Chemical Residues) Amendment Bill 1995**

No. , 1995

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### **A Bill for**

An Act to amend the *Stock (Chemical Residues) Act 1975* to make further provision with respect to chemical effects on stock.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Stock (Chemical Residues) Amendment Act 1995*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation. 5

**3 Amendment of Stock (Chemical Residues) Act 1975 No 26**

The *Stock (Chemical Residues) Act 1975* is amended as set out in Schedule 1.



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## Schedule 1 Amendments

(Section 3)

**[1] Long title**

Insert "or which are otherwise chemically affected" after "chemicals".

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**[2] Long title**

Omit "becoming affected by those residues".  
Insert instead "from becoming chemically affected".

**[3] Section 3 Definitions**

Insert in alphabetical order:

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*chemically affected* stock means stock that, by virtue of an order in force under section 4, are chemically affected.

*record* includes 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.

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**[4] Section 3, definition of "residue affected"**

Omit the definition.

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**[5] Section 4**

Omit the section. Insert instead:

**4 Order declaring stock to be chemically affected**

- (1) The Minister may, by order published in the Gazette, declare that stock that contain, in body tissues or secretions of a specified kind, more than a specified concentration of a specified residue are chemically affected. The Minister is not to make such an order unless of the opinion that stock to which the order relates are, or are likely to become, degraded on account of the residue mentioned in the order. 5  
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- (2) An order under subsection (1):
- (a) may specify different residue concentrations in respect of different kinds of stock, and
- (b) instead of specifying residue concentrations, may refer to or adopt, with or without modification, residue concentrations prescribed or specified in a standard, rule or code made and published by any Commonwealth or State authority or body, as in force at a particular time or as in force from time to time. 15  
20
- (3) The Minister may, by order published in the Gazette, declare that stock that have been treated with or exposed to a specified stock medicine or other specified substance are chemically affected. The Minister is not to make such an order unless of the opinion that stock to which the order relates are, or are likely to become, degraded on account of the relevant treatment or exposure. 25
- (4) An order under subsection (3): 30
- (a) may define what constitutes treatment with or exposure to the stock medicine or other substance concerned, and

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- (b) may provide that stock that are chemically affected as a result of such treatment or exposure are to be regarded as no longer so affected if they are treated in a manner described in the order or if a specified period of time has elapsed. 5
- (5) For the purposes of this section, stock are degraded if they:
- (a) are unfit for sale or export for human consumption, or
- (b) pose a danger to human or animal health or to the environment, or 10
- (c) are detrimental to export or other trade.
- [6] Sections 5, 6, 7, 7A, 8, 11 and 12**
- Omit "residue affected" wherever occurring.  
Insert instead "chemically affected". 15
- [7] Section 5 Powers of inspectors**
- Omit "section 12A" from subsection (5) (a) (ii).  
Insert instead "section 4".
- [8] Section 7 Temporary notice for detention of chemically affected stock** 20
- Omit subsection (3). Insert instead:
- (3) The Minister, or the inspector who gave a person a detention notice under subsection (1), may, by a further notice to that person, revoke the detention notice or release any of the stock from being bound by it. 25

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Schedule 1 Amendments

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**[9] Section 8 Notice for detention of chemically affected stock**

Omit "or a prescribed officer" wherever occurring in subsections (1), (2) and (4).

**[10] Section 8 (1) (b)**

Omit "or prescribed officer".

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**[11] Section 8 (3)**

Omit the subsection. Insert instead:

- (3) The Minister may, by a further notice given to a person to whom a detention notice has been given under subsection (1), revoke the detention notice or release any of the stock from being bound by it.

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**[12] Section 9 Permits for movement of stock subject to detention notice**

Omit "or an officer prescribed for the purposes of section 8 (1)" from section 9 (2).

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**[13] Section 9A**

Insert after section 9:

**9A Requirements for moving stock**

- (1) The regulations may prescribe requirements to be complied with by persons who own or are in charge of any stock that are to be or are being moved from one place to another, including stock that are to be or are being moved into New South Wales from a place outside the State.

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- (2) Without limiting the generality of subsection (1), a regulation made for the purposes of this section may:
- (a) require a statutory or other declaration to be made as to the places where the stock concerned have been and their destination, and 5
  - (b) require stock to be marked or tagged, and
  - (c) place reasonable limits on the ports or places to or through which the stock may be moved, and
  - (d) impose other requirements for the purpose of ascertaining or estimating whether and to what extent the stock are chemically affected and of containing or mitigating any adverse effects, and 10
  - (e) impose a penalty not exceeding 100 penalty units for moving any stock in contravention of the regulation. 15
- [14] **Section 12A Stock medicine etc likely to have adverse affect on trade**  
Omit the section.
- [15] **Section 12B Representations on sale of stock after treatment**  
Omit "section 12A". Insert instead "section 4". 20
- [16] **Sections 12C, 12D and 12E**  
Insert after section 12B:
- 12C Reporting of test results**
- The owner of a laboratory or other facility where any test has been carried out to determine whether particular stock are chemically affected must: 25
- (a) if the result of the test indicates that the stock concerned are chemically affected, cause particulars of those results to be furnished to the Minister in the manner and form, and within the time, prescribed by the regulations, or 30

- (b) if the result of the test indicates that the stock concerned are not chemically affected, cause particulars of those results to be furnished to the Minister in the manner and form, and within a time, reasonably required by the Minister by notice in writing addressed to the operator or manager of the laboratory or other facility. 5

Maximum penalty: 100 penalty units.

#### 12D Supplying false information

- (1) A person must not, in submitting an application or otherwise giving information for the purposes of this Act, give information to the Minister or to a person engaged in the administration of this Act, knowing the information is false or misleading with respect to a material particular. 10  
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- (2) A person must not, in the course of or in connection with the sale or disposition of any stock, make a statement to the effect that:
- (a) the stock are not chemically affected or are not chemically affected in a particular way, or 20
- (b) the stock have not been on land that is associated with chemically affected stock, or
- (c) the owner or person in charge of the stock has certified or stated that the stock are not chemically affected or are not chemically affected in a particular way, 25
- if the person knows that the statement is false or misleading with respect to a material particular or is recklessly indifferent as to the truth or falsity of the statement with respect to such a particular. 30

Maximum penalty: 100 penalty units.

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**12E Protection from liability for furnishing of information or advice**

- (1) The provision, by the Minister or a person concerned in the administration of this Act, of any advice in connection with stock that are or may be chemically affected does not subject the Minister or person to any liability if the information or advice was provided in good faith. 5
- (2) The furnishing of particulars as required by section 12C does not subject the person who furnished them, or the owner of a laboratory or other facility on whose behalf they were furnished, to any civil liability. 10

**[17] Section 13A**

Insert after section 13:

**13A Delegation of functions** 15

- (1) The Minister may delegate the power to make orders under section 4 to the Chief, Division of Animal Industries or to such other officer as the regulations may prescribe.
- (2) The Minister may delegate any of the Minister's other powers, authorities, duties and functions under this Act (apart from this power of delegation) to any officer of the Department of Agriculture. 20

**[18] Section 14 Evidence**

Omit "an officer prescribed for the purposes of section (8) (1) or an inspector" wherever occurring in section 14 (3). 25  
Insert instead "an inspector or a delegate of the Minister".

**[19] Section 17 and Schedule 1**

Insert after section 16:

**17 Savings and transitional provisions**

Schedule 1 has effect.

**Schedule 1 Savings and transitional provisions** 5  
(Section 17)

**Part 1 Preliminary**

**1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts: 10
- Stock (Chemical Residues) Amendment Act 1995.*
- (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. 15
- (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:
- (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 20
- (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. 25



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**Part 2 Provisions consequent on enactment of  
Stock (Chemical Residues) Amendment Act  
1995**

**2 Orders under repealed section 4**

An order in force under section 4 immediately before the commencement of Schedule 1 [5] to the *Stock (Chemical Residues) Amendment Act 1995* continues in force as if made under subsection (1) of that section, as inserted by that Act. 5

**3 Orders under repealed section 12A**

An order in force under section 12A immediately before the commencement of Schedule 1 [14] to the *Stock (Chemical Residues) Amendment Act 1995* continues in force as if made under subsection (3) of section 4, as inserted by that Act. 10  
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