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GEORGII VI REGIS.

A.D. 1939.

No. 26 of 1939.

An Act to regulate the sale of stock medicines.

[Assented to 7th December, 1939.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "Stock Medicines Act, 1939". Short title.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. In this Act, unless the context or subject matter otherwise requires— Interpretation.
Cf. Vic. 4488,
1937, s. 2.

"biological product" means any vaccine, serum, or virus, whether living or dead, or any other product of bacterial growth :

"board" means the Stock Medicines Board :

"chief inspector" means the Chief Inspector of Stock :

"dealer" means any person who carries on business or trade as a seller of or dealer in any stock medicine, whether he is the manufacturer of the stock medicine or not and whether he carries on any other business or trade or not :

"Minister" means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor :

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“sell” includes barter or exchange, and also includes dealing in, agreeing to sell, or offering or exposing for sale, or having in possession for sale, or sending, forwarding, or delivering for sale or on sale, or causing, suffering, or attempting any such acts or things: and the derivatives of “sell” have a corresponding inclusive meaning:

“stock” means any animal or bird of the following kinds or species, namely:—horse, ass, mule, cow, sheep, goat, pig, dog, cat, domestic fowl or turkey, any other domestic animal or bird, or any animal kept in captivity:

“stock medicine” means any substance, or mixture, or compound of substances, or biological product, which is intended to be administered or applied to stock by any means for the purpose of—

- (a) preventing, diagnosing, curing, or alleviating any disease or injury in or to such stock; or
- (b) improving the condition or increasing the capacity of such stock for work or production or show or racing purposes,

but does not include—

- (i.) any stock lick within the meaning of the Stock Licks Act, 1931; or
- (ii.) any fungicide or insecticide within the meaning of the Pest Destroyers Act, 1919-1935:

“wholesale dealer” means any person who, whether as manufacturer, importer, or wholesale seller, is primarily responsible for putting on the market in South Australia any stock medicine.

**Exemptions
from Act.**
Cf. Vic. 4488,
1937, s. 2.

4. (1) This Act shall not apply to any stock medicine prescribed in the course of his profession by a person registered under the Veterinary Surgeons Act, 1935-1938, or any person who is holder of a permit under Part IIIA. of that Act, nor to any stock medicine supplied by any such person for any stock for the time being under his professional care or charge.

(2) This Act shall not apply to any stock medicine which is compounded in respect of any particular stock in the ordinary course of his business by any person registered as a pharmaceutical chemist under the Pharmacy Act, 1935-1937, but shall apply to any substance compounded by any such person for general use in the State.

(3) The Governor may by proclamation declare that this Act shall not apply to any stock medicine either generally or when sold in any specified circumstances or quantities or part of the State, and may by proclamation revoke or vary any such proclamation.

5. (1) For the purpose of this Act, the Governor may from time to time appoint a board to be called the "Stock Medicines Board".

Appointment of board.
Cf. Vic. 4488, 1937, s. 3.

(2) The board shall consist of—

- (a) the chief inspector, who shall be the chairman of the board ;
- (b) the Government Analyst ; and
- (c) a bacteriologist appointed on the nomination of the Minister.

(3) The member appointed pursuant to paragraph (c) of subsection (2) shall hold office for a term not exceeding two years, but shall be eligible for re-appointment. The said member shall not, by virtue of his appointment as a member, be subject to the Public Service Act, 1936-1938.

(4) Subject to this Act, the board shall meet at such times and conduct its business in such manner as it may decide or as may be prescribed.

(5) A quorum of the board shall consist of any two members of the board, but no decision of the board shall be arrived at unless at least two members of the board agree to that decision.

(6) The board shall have and may exercise the powers and authorities under this Act and such further powers as may be prescribed.

6. The Governor may from time to time appoint persons to be inspectors for the purposes of this Act.

Appointment of inspectors.
Cf. Vic. 4488, 1937, s. 4.

7. (1) Every wholesale dealer in any stock medicine shall within thirty days after the commencement of this Act or within thirty days after the date of his commencing in business or trade as such (whichever is the later date) and thereafter in every year on or before the thirtieth day of June of that year make to the chief inspector an application for registration of the stock medicine in writing in the prescribed form setting out—

Application for registration of stock medicine.
Cf. Vic. 4488, 1937, s. 5.

- (a) his name and place of business ;
- (b) the distinctive name of the stock medicine ;
- (c) the place of manufacture thereof and the name of the manufacturer ;
- (d) (i.) in the case of a stock medicine other than a biological product—the prescription thereof, that is to say, the actual prescription to which the stock medicine is made, stating all the constituent parts and their respective proportions and the constituents thereof which are claimed to be active constituents ; and

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(ii.) in the case of a stock medicine which is a biological product—the composition thereof, that is to say, the specific organism or product or ingredient claimed to be the active principle of the biological product and the concentration of such organism, product, or ingredient ;

(e) full directions for the use and application of the stock medicine, and a statement of the diseases or injuries which it is intended or claimed to prevent, diagnose, cure, or alleviate or of the nature of the improvement in condition, or increase in capacity of stock which it is intended or claimed to effect (as the case may be) ; and

(f) such other matters as are prescribed.

(2) If any application is made for the registration of any stock medicine and the particulars required to be supplied pursuant to paragraph (d) of subsection (1) in respect of the stock medicine are supplied to the chief inspector by the manufacturer of the stock medicine or by some person on behalf of the manufacturer, and the particulars are verified by a statutory declaration by the manufacturer or person or in the case of a body corporate, the manager thereof, it shall not be necessary for the applicant for registration of the stock medicine to supply to the chief inspector the particulars required to be supplied under paragraph (d) of subsection (1).

(3) Every such application shall be accompanied by—

(a) a statutory declaration by the wholesale dealer or in the case of a body corporate, the manager thereof, verifying the statements and particulars contained in the application ; and

(b) a fee of five shillings for every such stock medicine :

Provided that if application is made before the thirtieth day of June for the re-registration of a stock medicine, the registration of which expires on the said day, the fee shall be one shilling.

(4) If after the thirtieth day of June in any year any wholesale dealer in any stock medicine—

(a) proposes to sell any stock medicine in addition to those registered under this Act ; or

(b) alters in any way the prescription or composition of any stock medicine registered under this Act,

the wholesale dealer shall, before commencing to sell the additional stock medicine or the stock medicine as so altered, make with respect to the same a like application for registration as hereinbefore prescribed.

8. The information as to the prescription or composition of any stock medicine contained in any application for registration of such stock medicine shall be deemed confidential and shall not be disclosed by any member of the board or any officer of the Stock and Brands Department to any other person without the authority in writing of the wholesale dealer in such stock medicine except in pursuance of this Act or so far as is necessary in respect of any proceedings for an offence instituted or proposed to be instituted under this Act.

Information as to prescription or composition of stock medicine to be deemed confidential.
Cf. Vic. 4488, 1937, s. 6.

9. (1) Every application for registration of any stock medicine shall be submitted by the chief inspector to the board for its report and recommendation thereon.

Applications or registration to be submitted to board.
Cf. Vic. 4488, 1937, s. 7.

(2) No stock medicine shall be registered by the chief inspector except upon and in accordance with the recommendation of the board.

(3) Every registration of a stock medicine shall be made in respect only of its sale for use for such purposes as the board in its report approves.

(4) Before recommending to the chief inspector that any stock medicine should not be registered or that any stock medicine should be registered in respect of its sale for use for some only of the purposes indicated in the application for registration, the board shall give to the applicant for registration an opportunity to be heard personally in support of his application.

10. (1) The chief inspector shall cause to be kept a register in the prescribed form of all stock medicines registered under this Act showing—

Register of registered stock medicine.
Cf. Vic. 4488, 1937, s. 8.

- (a) the respective distinctive names of the stock medicines ;
- (b) the respective prescriptions or compositions of the stock medicines as set out in applications for registration ;
- (c) the respective purposes for which the stock medicines may in accordance with the board's report be sold for use ; and
- (d) such other matters as are prescribed.

(2) A copy of the register of registered stock medicines (omitting the prescriptions or compositions thereof) completed up to the first day of July in each year shall as soon as practicable after such first day of July be published in the *Government Gazette*, and may at any time after such publication be published in the newspaper known as the *Journal of the Department of Agriculture of South Australia*.

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(3) The registration of any stock medicine shall subject to this Act continue in force until the thirtieth day of June next after the registration and no longer.

References to this Act, etc., upon packages and in advertisements of registered stock medicines.
Cf. Vic. 4498, 1937 s 9.

11. (1) Every package of a registered stock medicine shall bear thereon the words "Registered under the Stock Medicines Act, 1939".

If the chief inspector is satisfied that any registered stock medicine is also registered under any Act of any other State of the Commonwealth which provides for the registration of stock medicines, the chief inspector may, by notice published in the *Government Gazette*, declare that, for the period specified in the notice, it shall be sufficient compliance with this subsection if any package of the registered stock medicine bears thereon words indicating that the stock medicine is registered under such Act. Any such notice may be revoked by notice published in the *Government Gazette* and whilst the notice is in force it shall be sufficient compliance with this subsection if the provisions of the notice are complied with.

(2) No package of a registered stock medicine shall bear thereon and no written or printed matter relating to any registered stock medicine shall contain—

(a) any reference to this Act other than the words "Registered under the Stock Medicines Act, 1939";
or

(b) any statement suggesting or implying that the stock medicine has been recommended or approved by the Government, the Stock and Brands Department, the Stock Medicines Board, or any other Government authority.

(3) Any person who—

(a) sells any package of a registered stock medicine which—

(i.) does not bear thereon the words prescribed by subsection (1) of this section; or

(ii.) bears thereon any reference or statement in contravention of subsection (2) of this section; or

(b) publishes, circulates or distributes or causes to be published, circulated or distributed, any written or printed matter relating to any registered stock medicine which contains any reference or statement in contravention of subsection (2) of this section,

shall be guilty of an offence against this Act, and liable to a penalty of not more than five pounds.

12. Any person who after the expiration of a period of twelve months after the commencement of this Act—

- (a) sells any stock medicine which is not registered under this Act ;
- (b) sells under the name of a registered stock medicine any stock medicine which does not conform with the registered prescription or composition of that registered stock medicine ; or
- (c) sells any registered stock medicine in respect of which any claim or statement as to its efficacy for use for any purpose, other than those in respect of which it is registered, has been made by him or with his consent either verbally or in any written or printed matter relating thereto,

Offences in relation to sale and advertisement of stock medicines.
Cf. Vic. 4488, 1937, s. 10.

shall be guilty of an offence against this Act, and liable for a first offence to a penalty of not more than twenty pounds and for any subsequent offence to a penalty of not less than five or more than fifty pounds :

Provided that no person other than the wholesale dealer in any registered stock medicine shall be deemed guilty of any offence against paragraph (b) of this section unless it is proved that he knew that the stock medicine sold did not conform with the registered prescription or composition.

13. If any wholesale dealer in any registered stock medicine—

- (a) sells under the name of such registered stock medicine any stock medicine which does not conform with the registered prescription or composition of such registered stock medicine ; or
- (b) publishes, circulates, or distributes, or causes to be published, circulated, or distributed, any written or printed matter containing any claim or statement as to the efficacy of such registered stock medicine for use for any purpose other than those in respect of which it is registered ; or
- (c) publishes, circulates, or distributes, or causes to be published, circulated, or distributed, any written or printed matter containing any claim or statement with respect to such registered stock medicine which in the opinion of the board is misleading or untrue,

Cancellation of registration.
Cf. Vic. 4488, 1937, s. 11.

the chief inspector may, upon the recommendation of the board, cause the registration of such stock medicine to be cancelled.

Notice by
dealers.

14. (1) Every dealer shall within thirty days after the commencement of this Act or within thirty days after the date of his commencing in business or trade as a dealer (whichever is the later date) and thereafter in every year on or before the thirtieth day of June of that year give notice in writing in the prescribed form to the chief inspector of his name and place of business.

(2) If after the expiration of a period of twelve months after the commencement of this Act any person who has not given notice to the chief inspector as required by subsection (1), sells any stock medicine, he shall be guilty of an offence against this Act and liable for a first offence to a penalty of not more than twenty pounds and for any subsequent offence to a penalty of not less than five or more than fifty pounds.

Powers of
inspectors.
Of. Vic. 4488,
1937, s. 12.

15. (1) For the purpose of ascertaining whether the provisions of this Act are being complied with, any inspector—

(a) shall have free access at all reasonable times to any shop, store, building, or vehicle wherein any stock medicine is prepared or sold or offered or exposed or carried for sale; and

(b) may examine and without payment therefor take for the purposes hereinafter provided samples of such stock medicine.

(2) Any such samples shall if possible be taken in the presence of the vendor or of the person apparently in charge of the stock medicine.

(3) The samples of any one kind of stock medicine taken shall be thoroughly mixed and then divided into three approximately equal parts: Provided that when any such medicine is made up in packages three such packages may be taken and dealt with as if they were the three parts into which the samples are to be divided.

(4) Each of such parts shall be sealed or fastened up in such manner as its nature permits and a label shall be placed on each such part stating the name of the vendor or the person apparently in charge of the lot from which the samples are taken and the time and place of taking. The label shall be signed by the person taking the samples and also where practicable by the vendor or person apparently in charge of the lot from which the samples are taken.

(5) The inspector shall retain one such part, shall forward one such part to the Government Analyst for analysis in the Department of the Government Analyst and for comparison

with the registered prescription or composition of the registered stock medicine in question (if any), and shall deliver the third part to the vendor or person apparently in charge of the lot from which the samples are taken if such vendor or person is present at the time of sampling.

(6) Where the inspector takes any samples in the absence of such vendor or person he shall—

(a) give notice in writing of such taking to such vendor or person ; and

(b) deliver or forward one part to such vendor or person.

(7) Where in any prosecution or proceeding under this Act a contravention of any of the provisions of this Act is proved with respect to any part of samples taken as aforesaid such contravention shall be deemed to have been proved with respect to the whole lot from which the samples were taken.

16. Any person who prevents, delays, obstructs, or hinders any inspector from or in the execution of his powers and duties under this Act shall be guilty of an offence against this Act, and liable to a penalty of not more than twenty pounds.

Penalty for preventing, etc., inspector from execution of powers and duties.
Cf. Vic. 4488, 1937, s. 13.

17. Every dealer in any stock medicine shall when so required by the board forward without payment to the board for analysis a sample of such stock medicine.

Duty of dealers to provide samples to board when so required.
Cf. Vic. 4488, 1937, s. 14.

18. No member of the board or inspector shall, except in respect of wilful misconduct or neglect, be liable to any legal proceedings for anything done or omitted to be done in the exercise or execution of any of his powers or duties under this Act.

Saving of inspectors, etc., from liability.
Cf. Vic. 4488, 1937, s. 15.

19. The Governor may make regulations for or with respect to—

Regulations.
Cf. Vic. 4488, 1937, s. 17.

(a) prescribing the times and places of meeting of the board and the conduct of the business thereof ;

(b) prescribing subject to this Act the form and manner of applications for registration of stock medicines and notices by dealers under section 14 ;

(c) prescribing subject to this Act the form of the register of stock medicines and the particulars to be recorded therein ; and

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(d) generally, prescribing any matter or thing required or permitted to be prescribed or necessary or expedient to be prescribed for carrying this Act into effect.

**Proceedings
for offences.**

20. All proceedings for offences against this Act shall be disposed of summarily.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. M. BARCLAY-HARVEY, Governor.