

Animal Preparations Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 25 March 1987

(Brought in by Mr Jolly and Mr Fordham)

A BILL

to re-enact, with amendments, the law relating to the registration of animal preparations and the regulation of their sale and use, to repeal the *Stock Foods Act* 1958, the *Stock Medicines Act* 1958 and the *Sheep Branding Fluids Act* 1963, to amend the *Agricultural Chemicals Act* 1958 and certain other Acts and for other purposes.

Animal Preparations Act 1987

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

Purpose.

1. The purposes of this Act are—
 - 5 (a) to establish a single registration system for all types of animal preparations; and
 - (b) to provide for greater control over the sale and use of animal preparations; and
 - 10 (c) to continue the Stock Medicines Board in existence pending the establishment of the Animal Preparations Board under this Act.

Commencement.

2. (1) Section 37 comes into operation on the day on which this Act receives the Royal Assent.
- 15 (2) The remaining provisions of this Act come into operation on a day or days to be proclaimed.

Definitions, etc.**3. (1) In this Act—**

“Advice note” means any document (excluding a label) containing any information about or advice on the use of an animal preparation that is supplied by the vendor to the purchaser in connection with the sale of that animal preparation. 5

“Animal preparation” means—

(a) any substance administered or applied to stock or intended to be administered or applied to stock for the purpose of— 10

(i) preventing, diagnosing, alleviating or treating an injury to, or disease in, stock; or

(ii) improving the health or welfare of stock; or

(iii) modifying the reproductive process in stock; or 15

(iv) modifying a physiological process in stock; or

(v) increasing the capacity of stock for work or production; or

(vi) improving the preparation of stock for show or cosmetic purposes; or 20

(b) any dehorning preparation; or

(c) any substance used or intended to be used for the purpose of making an identifying or distinguishing mark or brand on any sheep or the wool of any sheep; or 25

(d) any stock food; or

(e) any stock pesticide; or

(f) any substance or class of substances that is by proclamation of the Governor in Council declared to be an animal preparation for the purposes of this Act. 30

“Approved analyst” means a person who has been approved by the chief administrator under section 29 (1).

“Board” means the Animal Preparations Board established by section 22 (1). 35

“Chief administrator” means the chief administrator (by whatever name called) of the Department under the *Public Service Act* 1974.

“Constituent” includes additive and contaminant. 40

“Department” means the administrative unit referred to as the Department of Agriculture and Rural Affairs in Column One of Schedule Two to the *Public Service Act* 1974.

“**Formulate**” means, in relation to an animal preparation, to manufacture or prepare the animal preparation.

“**Label**” includes any tag, brand, mark or statement in writing that accompanies an animal preparation at the time of its sale or delivery to the buyer.

“**National Health and Medical Research Council**” means the Council that is referred to in section 2 of the *Medical Research Endowment Act 1937* of the Commonwealth.

“**Package**” means anything in or by which an animal preparation is wholly or partly cased, covered, enclosed, contained or packed but if an animal preparation is not so cased, covered, enclosed, contained or packed then it means any bale, block, cake or slab comprising the animal preparation.

“**Registration period**” means, in relation to an animal preparation of the type described in paragraph (a), (b), (c), (d) or (e) of the definition of “Animal preparation” in sub-section (1), the prescribed period (not exceeding 10 years) commencing on the prescribed date and on the same day in each year thereafter in which the prescribed period ends.

“**Sell**”, in relation to an animal preparation, includes—

(a) barter; and

(b) exchange; and

(c) agree to sell; and

(d) offer to sell; and

(e) receive for sale; and

(f) have in possession for sale; and

(g) expose for sale; and

(h) send, forward or deliver for sale; and

(i) sell for resale; and

(j) give away for the purpose of advertisement or in furtherance of trade or business; and

(k) cause, permit or attempt to sell.

“**Stock**” means any animal and includes birds, domestic pets, fish and bees.

“**Stock food**” means any substance used or intended to be used for consumption by stock.

“**Stock pesticide**” means—

(a) any insecticide (within the meaning of the *Agricultural Chemicals Act 1958*) used or intended to be used for the purpose of preventing, destroying, repelling, luring or controlling insects or other arthropods that affect or attack or that may affect or attack stock; or

- (b) any fungicide (within the meaning of the *Agricultural Chemicals Act* 1958) used or intended to be used for the purpose of preventing, destroying, repelling or controlling any fungi or bacteria that affect or attack or that may affect or attack the wool on a sheep. 5
- “Substance”** includes—
- (a) a mixture or compound; and
- (b) biological preparations including bacteria, fungi and viruses. 10
- “Wholesaler dealer”**, in relation to an animal preparation, means—
- (a) the person who is primarily responsible for placing it on the market in Victoria; or
- (b) if the animal preparation is not for sale and not registered under this Act, the person who has the custody or management of it if that person intends it to be administered or applied to that person’s stock. 15
- (2) For the purposes of this Act the appropriation of any animal preparation by one person for use— 20
- (a) in the performance for hire or reward of services to another person in pursuance of a contract in that behalf; or
- (b) under arrangements with another person—
- (i) that do not constitute a sale of the animal preparation to that other person; and 25
- (ii) that are intended to benefit both the person appropriating the animal preparation and that other person but under which the probability or extent of any benefit to that other person may be affected by the quality of the animal preparation— 30
- is to be treated as a sale of that animal preparation to that other person by the person so appropriating it.
- (3) If under the *Public Service Act* 1974 the name of the Department is changed, the reference in the definition of “Department” in sub-section (1) to the “Department of Agriculture and Rural Affairs” is from the date when the name is changed to be taken to be a reference to the Department by its new name. 35
- (4) The Governor in Council may by proclamation declare a substance or class of substances to be an animal preparation for the purposes of this Act and to be an animal preparation of the type described in paragraph (a), (b), (c), (d) or (e) of the definition of “Animal preparation” in sub-section (1). 40
- (5) A proclamation made under this Act—

- (a) must be published in the *Government Gazette*; and
- (b) may be amended or revoked by a subsequent proclamation.

Objects of Act.

4. The objects of this Act are as follows:

- 5 (a) To protect domestic and export trade by making provision to ensure that unacceptable residues do not occur in food derived from stock;
- (b) To protect consumers by setting adequate standards for the safety, efficacy and quality of animal preparations;
- 10 (c) To protect and promote animal welfare by ensuring that animal preparations are safe and effective.

Exemption by proclamation.

5. The Governor in Council may by proclamation exempt any animal preparation or class of animal preparations from any of the provisions of this Act or the regulations, either unconditionally or on specified conditions or in specified circumstances.

Act to bind the Crown.

6. This Act binds the Crown, not only in right of Victoria, but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

PART 2—CONTROLS OVER ANIMAL PREPARATIONS**Application for registration of animal preparation.**

7. (1) A wholesale dealer in an animal preparation may apply to the chief administrator for registration of that preparation.
- 25 (2) An application under sub-section (1)—
- (a) must be in writing in the prescribed form; and
 - (b) must specify any matters that are prescribed; and
 - (c) must be accompanied by—
 - 30 (i) the prescribed application fee; and
 - (ii) any documents and other things that are prescribed.
- (3) The chief administrator must submit each application to the Board for a report and recommendation on it.
- (4) An applicant must provide the chief administrator or the Board with, or arrange for the chief administrator or the Board to be provided with, any other information or certification that the chief administrator or the Board considers necessary.

(5) An animal preparation may only be registered by the chief administrator on and in accordance with the recommendation of the Board.

(6) Before recommending to the chief administrator that an animal preparation should not be registered (either at all or in the manner applied for), the Board must give the applicant for registration an opportunity to make a submission in support of the application. 5

Registration period.

8. (1) Subject to sub-section (2), if the chief administrator approves an application for registration, the animal preparation is registered until the end of the relevant registration period. 10

(2) If the Board so recommends, the chief administrator may approve of an animal preparation being registered temporarily for the period (not exceeding 3 months) recommended by the Board and on any conditions that the Board may recommend. 15

(3) While a temporary registration is in force, the animal preparation is to be treated for all purposes as an animal preparation that is registered under this Act.

Renewal of registration.

9. (1) A wholesale dealer in an animal preparation that is registered under this Act may apply to the chief administrator for renewal of the registration not less than 45 days before the registration is due to expire. 20

(2) An application under sub-section (2)—

- (a) must be in writing in the prescribed form; and
- (b) must specify any matters that are prescribed; and 25
- (c) must be accompanied by—
 - (i) the prescribed renewal fee; and
 - (ii) any documents and other things that are prescribed.

(3) Sub-sections (3) to (6) of section 7 and section 8 (1) apply to an application for renewal of registration in the same way as they apply to an application for registration. 30

Application for approval of certain changes.

10. (1) A wholesale dealer in an animal preparation that is registered under this Act who desires to change the manner of formulating that animal preparation from that described in the application for registration or renewal of registration or to make any other change of a prescribed nature with respect to that animal preparation may apply to the chief administrator for approval of that change. 35

(2) An application under sub-section (1)— 40

- (a) must be in writing in the prescribed form; and
- (b) must specify any matters that are prescribed; and
- (c) must be accompanied by—

- 5 (i) the prescribed application fee; and
- (ii) any documents and other things that are prescribed.

(3) The chief administrator must submit each application to the Board for a report and recommendation on it.

- 10 (4) An applicant must provide the chief administrator or the Board with, or arrange for the chief administrator or the Board to be provided with, any other information or certification that the chief administrator or the Board considers necessary.

(5) A change of the type referred to in sub-section (1) may only be approved by the chief administrator on and in accordance with the recommendation of the Board.

- 15 (6) Before recommending to the chief administrator that a change should not be approved, the Board must give to the applicant an opportunity to make a submission in support of the application.

Approval of label or advice note.

- 20 11. (1) A person must not sell an animal preparation that is registered under this Act unless at the time of its sale or delivery to the buyer the preparation is accompanied by a label or advice note that has been approved in accordance with the regulations by the chief administrator on and in accordance with the recommendation of the Board.

- 25 Penalty: (a) In the case of a corporation—100 penalty units;
 (b) In any other case—25 penalty units.

(2) Regulations made for the purposes of this section may prescribe a fee to be paid by an applicant for approval of a label or advice note.

Warranties.

- 30 12. Despite any agreement or notice to the contrary, a statement appearing on a label or in an advice note that accompanies an animal preparation at the time of its sale or delivery to the buyer has effect as a warranty by the vendor of the accuracy of that statement.

Application by wholesale dealer for cancellation of registration.

- 35 13. (1) The wholesale dealer in an animal preparation that is registered under this Act may apply to the chief administrator in the prescribed form for cancellation of the registration of that preparation.

- 40 (2) The chief administrator may approve of the cancellation of the registration of an animal preparation and, if the chief administrator so approves, he or she must cause that registration to be cancelled from

the date and subject to the conditions determined by the chief administrator.

(3) The chief administrator may cause notice of the cancellation to be published in the *Government Gazette*.

Cancellation of registration by chief administrator.

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14. (1) The chief administrator may, on any prescribed ground, cancel the registration of an animal preparation.

(2) The registration of an animal preparation may only be cancelled by the chief administrator on and in accordance with the recommendation of the Board.

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(3) If the chief administrator decides to cancel the registration of an animal preparation, the chief administrator must cause notice of that decision—

(a) to be published as soon as possible in the *Government Gazette*; and

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(b) to be sent as soon as possible by registered post to the wholesale dealer in the preparation.

(4) The cancellation of the registration of an animal preparation takes effect at the end of the review period.

(5) For the purposes of sub-section (4) the review period ends—

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(a) on the 28th day after—

(i) the day on which the decision to cancel the registration was made; or

(ii) if a statement under section 29 (1) or (2) of the *Administrative Appeals Tribunal Act 1984* is furnished to an applicant in respect of the decision, the day on which the statement was furnished—

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whichever is the later; or

(b) if an application is made to the Administrative Appeals Tribunal for review of the decision, when the review is completed or the application is dismissed.

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Review of decisions of chief administrator.

15. An application may be made to the Administrative Appeals Tribunal for review of a decision of the chief administrator—

(a) refusing to register, or to renew the registration of, an animal preparation; or

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(b) cancelling the registration of an animal preparation.

Prohibitions.

16. (1) The Governor in Council may by proclamation prohibit, either for all purposes or for any specified purpose or purposes, the sale and use of any animal preparation or class of animal preparations—

- 5 (a) that is specified in the proclamation; or
 (b) that contains a constituent or class of constituents specified in the proclamation; or
10 (c) that contains a constituent or class of constituents in a proportion other than the proportion specified in the proclamation.

(2) A person must not contravene a proclamation made under sub-section (1), unless exempted by a permit issued under section 17 (1).

- 15 Penalty: (a) In the case of a corporation—100 penalty units;
 (b) In any other case—25 penalty units.

Permits to purchase and use certain animal preparations.

17. (1) The chief administrator may, on an application made in the prescribed form, issue to any person a permit in the prescribed form to purchase and use, for the purpose specified in the permit, an animal preparation—

- 20 (a) that is not registered under this Act; or
 (b) the sale and use of which is otherwise prohibited.

(2) A permit issued under sub-section (1) is subject to the conditions specified in the permit.

25 Offences.

18. (1) A person must not sell or use an animal preparation—

- (a) that is not registered under this Act, unless exempted by a permit issued under section 17 (1); or
30 (b) with respect to which a change of the type referred to in section 10 (1) has been made, unless that change has been approved under that section; or
 (c) that does not comply with any standard prescribed under section 34 (1) (k).

- Penalty: In the case of a corporation—100 penalty units;
35 In any other case—25 penalty units.

(2) A person is not guilty of an offence under this Act by reason only of the sale or use by that person of an animal preparation that is not registered under this Act if—

- 40 (a) the sale or use took place within the period of 12 months immediately after the preparation ceased to be registered; and

- (b) the preparation formed part of a stock of that preparation that was in the possession of that person immediately before the preparation ceased to be registered; and
- (c) the registration was not cancelled under section 14; and
- (d) that person is not a wholesale dealer in the preparation.

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(3) A person must not make in, or in relation to, an application to the chief administrator under this Act any statement that is false or misleading by reason of the inclusion in the statement of false or misleading matter or of the omission from the statement of any material matter.

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- Penalty: (a) In the case of a corporation—50 penalty units;
 (b) In any other case—15 penalty units.

Requirement to notify certain deficiencies.

19. The wholesale dealer in an animal preparation must notify the Board immediately if the dealer becomes aware of—

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- (a) any deficiency in the formulation of the preparation; or
- (b) any contamination of the preparation; or
- (c) any adverse reaction that the preparation may cause in animals or people.

- Penalty: (a) In the case of a corporation—50 penalty units;
 (b) In any other case—15 penalty units.

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Power to order recall of animal preparations.

20. (1) The chief administrator may make an order in the prescribed form requiring the wholesale dealer in an animal preparation—

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- (a) to withdraw the preparation from sale either immediately or within the time specified in the order; and
- (b) to take the action specified in the order to recover all stocks of that preparation from the persons to whom they were supplied and to destroy those stocks.

(2) The chief administrator may only make an order under sub-section (1) in respect of an animal preparation if he or she is of the opinion that the preparation is likely—

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- (a) to endanger the health of the public; or
- (b) to endanger the health of any person administering or applying the preparation to stock; or
- (c) to affect the health of consumers of produce that has been derived from stock to which the preparation has been administered or applied; or
- (d) to affect the health of stock to which the preparation is administered or applied.

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(3) A wholesale dealer must not contravene an order made under sub-section (1).

Penalty: (a) In the case of a corporation—100 penalty units;

(b) In any other case—25 penalty units.

5 Confidentiality of information.

21. (1) This section applies to—

- 10 (a) information in relation to an animal preparation that is included in or accompanies an application for registration, for renewal of registration, for a change of the type referred to in section 10 (1) or for approval of a label or advice note; and
- 15 (b) any further information in relation to an animal preparation provided to the chief administrator or the Board by an applicant, whether orally or in writing, on an application referred to in paragraph (a); and
- (c) any information provided to the chief administrator or the Board or any officer of the Department in relation to an animal preparation by—
- 20 (i) the National Health and Medical Research Council; or
- (ii) any body that is constituted for the national evaluation of animal preparations and that is prescribed for the purposes of this section—

25 but does not apply to information that is included on a label or in an advice note that accompanies the animal preparation at the time of its sale or delivery to the buyer.

30 (2) Any information to which this section applies is to be treated as confidential and, subject to sub-section (3), the chief administrator or a member of the Board or officer of the Department must not disclose that information to any other person without the written authority of the wholesale dealer in the animal preparation concerned 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.

Penalty: 15 penalty units.

35 (3) The chief administrator may disclose any information to which this section applies—

- 40 (a) to the person for the time being in charge of the Poisons Information Centre, if so requested by that person in a poisoning emergency; or
- (b) to the Chief General Manager of the Department of Health or a person nominated by the Chief General Manager for the purposes of this sub-section, in prescribed circumstances; or
- (c) to an approved analyst.

(4) A person to whom information to which this section applies is disclosed in pursuance of this Act must not disclose that information to any other person without the written authority of the wholesale dealer in the animal preparation concerned 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. 5

Penalty: 15 penalty units.

PART 3—ANIMAL PREPARATIONS BOARD

Animal Preparations Board.

22. (1) There is established a Board to be known as the Animal Preparations Board. 10

(2) The Board consists of seven members appointed by the Minister of whom—

- (a) four shall be officers of the Department;
- (b) one shall be a person whose name is included in a panel of not less than three names submitted to the Minister by a body that the Minister considers to be representative of veterinary surgeons; 15
- (c) one shall be a person whose name is included in a panel of not less than three names submitted to the Minister by a body that the Minister considers to be representative of pharmaceutical chemists; 20
- (d) one shall be a person nominated by the Minister administering Part II. of the *Health Act* 1958.

(3) The Minister must appoint one of the members referred to in paragraph (a) to be the Chairperson of the Board. 25

(4) If there is or is about to be a vacancy in the office of a member referred to in paragraph (b) or (c) of sub-section (2) (whether or not an appointment has previously been made to that office) the Minister must request the body chosen by the Minister for the purposes of that paragraph to submit to the Minister in writing on or before the date specified by the Minister when making the request a panel of names of persons eligible to be appointed as members of the Board. 30

(5) If a body that is requested to submit a panel of names fails to do so on or before the date specified by the Minister, the Minister may appoint an otherwise eligible person to fill the vacancy. 35

(6) Subject to the *Public Service Act* 1974, there shall be appointed such officers and employees as are necessary for the proper functioning of the Board.

Members.

23. (1) Each member of the Board—

(a) holds office for the period (not exceeding 3 years) specified in the instrument of his or her appointment;

(b) is eligible for re-appointment at the end of his or her term of office;

(c) unless he or she holds a full-time government office (within the meaning of the *Public Service Act* 1974) or a full-time office in the public service or with a statutory authority, is entitled to be paid—

(i) such remuneration as is from time to time fixed by the Governor in Council; and

(ii) allowances for travelling and personal expenses at the rates and on the conditions applicable to officers of the public service;

(d) is not in respect of the office of member subject to the *Public Service Act* 1974.

(2) The Minister may at any time remove a member from office.

(3) The Minister may, in the instrument of appointment of a member, specify terms and conditions of appointment.

(4) A member may resign from office by delivering to the Minister a signed letter of resignation.

(5) A person who has attained the age of 65 years is not capable of being appointed or re-appointed as a member.

(6) If a member—

(a) becomes bankrupt; or

(b) is convicted of an indictable offence or of an offence which, if committed in Victoria, would be an indictable offence; or

(c) becomes incapable of performing the duties of his or her office; or

(d) is removed or resigns from his or her office; or

(e) attains the age of 65 years; or

(f) dies—

the office of that member becomes vacant.

Chairperson.

24. (1) The member appointed to be the Chairperson of the Board—

(a) holds office as Chairperson for the period (not exceeding 3 years) specified in the instrument of his or her appointment as Chairperson unless he or she sooner ceases to be a member of the Board;

- (b) is eligible for re-appointment as Chairperson at the end of his or her term of office;
 - (c) is not in respect of the office of Chairperson subject to the *Public Service Act 1974*.
- (2) The Minister may at any time remove the Chairperson from the office of Chairperson. 5
- (3) The Minister may, in the instrument of appointment of the Chairperson, specify terms and conditions of appointment.
- (4) The Chairperson may resign from the office of Chairperson by delivering to the Minister a signed letter of resignation. 10
- (5) The Chairperson may be referred to as the Chairman or the Chairwoman, as the case requires.

Meetings of Board.

- 25. (1) At a meeting of the Board the Chairperson (or, in the absence of the Chairperson, such member as the members present appoint) shall preside. 15
- (2) The quorum for a meeting of the Board is 4.
- (3) A question arising at a meeting of the Board is to be determined by a majority of votes of the members present and voting on that question and, in the event of an equality of votes, the person presiding at the meeting is to have a second or casting vote. 20
- (4) A proceeding or decision of the Board is not invalid by reason only of—
 - (a) a defect or irregularity in or in connection with the appointment of a member; or 25
 - (b) a vacancy in the membership of the Board, including a vacancy arising because of the failure to appoint an original member.
- (5) Subject to this Act and the regulations, the Board may regulate its own proceedings. 30

Functions of Board.

- 26. (1) The functions of the Board are to—
 - (a) make recommendations to the chief administrator regarding—
 - (i) the registration, composition, labelling, sale or use of any animal preparation; or 35
 - (ii) the standard for any animal preparation; and
 - (b) investigate and make recommendations to the Minister or the chief administrator (as the case requires) regarding any

matter referred to the Board by the Minister or the chief administrator.

- 5 (2) In discharging its functions, the Board must give effect to any guidelines issued under section 35 (1) that relate to procedures to be applied in relation to the registration of animal preparations.

Annual report.

27. (1) As soon as possible after 30 June in each year the Board must submit to the Minister an annual report of its operations during the period of 12 months ending at midnight on 30 June in that year.

- 10 (2) The report must be prepared in such form and contain such information as is determined by the Minister.

(3) The report is to be included in the report of operations and financial statements prepared in respect of the Department for that year under the *Annual Reporting Act* 1983.

15 **PART 4—ENFORCEMENT**

Authorised officers.

28. (1) The chief administrator may appoint any officer of the Department to be an authorised officer for the purposes of this Act and the regulations.

- 20 (2) On the appointment of an authorised officer under sub-section (1) the chief administrator must cause a certificate of authority in the prescribed form to be issued to the officer.

(3) An authorised officer has the prescribed powers, functions and duties.

- 25 (4) Regulations made for the purposes of sub-section (3) may, among other things, empower an authorised officer to enter at any reasonable time any land or premises (other than residential premises) on or at which the officer reasonably suspects that animal preparations are sold or used or kept for sale or use or stored and therein—

- 30 (a) to search for any animal preparation and take (without payment) in accordance with the regulations a quantity of it as a sample for analysis; and
- (b) to seize and destroy any animal preparation the sale and use of which is prohibited or remove any such animal
- 35 preparation for the purpose of having it destroyed; and
- (c) to inspect, examine and make copies of, or take extracts from, any document or remove any document for the purpose of making a copy of it or taking an extract from it.

- 40 (5) A person must not assault or obstruct an authorised officer in the exercise or performance of any power, function or duty under this Act or the regulations.

Penalty: 15 penalty units.

Approved analysts.

29. (1) The chief administrator may approve a person, whom the chief administrator considers to be appropriately qualified, to be an analyst for the purposes of this Act and the regulations.

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(2) An approval given under sub-section (1)—

(a) may be general or in respect of a particular type of analysis; and

(b) may at any time be varied or revoked.

(3) The chief administrator must cause to be published in the *Government Gazette* notice of the approval of a person as an analyst.

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Report of approved analyst.

30. (1) The chief administrator or the Board may send to an approved analyst information about an animal preparation (including information about its formulation) together with a sample of it for the purpose of having the preparation tested, analysed and reported on.

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(2) A report obtained by the chief administrator or the Board from an approved analyst under sub-section (1) is to be treated as confidential and a member of the Board or officer of the Department or the approved analyst must not disclose the contents of that report to any other person 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.

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Penalty: 15 penalty units.

Power of authorised officer to prosecute.

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31. Proceedings for an offence against this Act or the regulations may be brought by an authorised officer.

Evidentiary provisions.

32. (1) In any proceedings for an offence against this Act or the regulations proof is not required as to—

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(a) the authority of an officer to prosecute; or

(b) the appointment of the chief administrator, an authorised officer or any other officer of the Department; or

(c) the approval of an analyst—

until evidence is given to the contrary.

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(2) If in respect of a prosecution for an offence against this Act an approved analyst makes an analysis of an animal preparation on behalf of the informant and issues a certificate in the prescribed form setting out the result of the analysis, the certificate is admissible in evidence in

the proceedings and is conclusive proof of the facts and matters contained in it, unless the accused person gives notice in writing to the informant not less than 7 days before the hearing that the accused person requires the analyst to be called as a witness.

5 Delegation.

33. The chief administrator may, by instrument, delegate to an officer of the Department by name or to the holder of an office or position in the Department any power of the chief administrator under this Act or the regulations, other than this power of delegation.

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PART 5—REGULATIONS

Regulations.

34. (1) The Governor in Council may make regulations for or with respect to—

- 15 (a) prescribing fees;
- (b) prescribing forms;
- (c) prescribing the procedure of the Board;
- (d) prescribing—
 - 20 (i) the commencement date for the first registration period or periods under this Act;
 - (ii) subject to sub-section (2), the length (not exceeding 10 years) of the registration period or periods under this Act;
- (e) prescribing the matters to be specified in applications and the things that must accompany applications;
- 25 (f) prescribing the changes with respect to an animal preparation for which the approval of the chief administrator must be obtained;
- (g) prescribing the form of the register of animal preparations and the particulars to be contained in it and the fees to be paid for inspecting it;
- 30 (h) prescribing the grounds on which registration of an animal preparation may be cancelled and the procedures to be followed in those cases;
- (i) prescribing procedures for the approval of labels and advice notes;
- 35 (j) prescribing—
 - (i) particulars to be written on labels or advice notes and the manner in which, and method by which, they are to be written;
 - 40 (ii) matters or things that are not to be written on labels or advice notes;

- (iii) the manner in which, and the time at which, advice notes are to be supplied to purchasers of animal preparations;
 - (iv) the manner in which labels are to accompany animal preparations; 5
 - (k) requiring any animal preparation or class of animal preparations or any constituent contained in an animal preparation or class of animal preparations to comply with standards relating to composition, quality, purity and method of manufacture specified in the regulations; 10
 - (l) prescribing a body of the type referred to in section 21 (1) (c) (ii) to be a body for the purposes of that section;
 - (m) prescribing the circumstances in which information to which section 21 applies may be disclosed to the Chief General Manager of the Department of Health or his or her nominee; 15
 - (n) prescribing the powers, functions and duties of authorised officers;
 - (o) prescribing procedures for the taking by authorised officers of samples of animal preparations;
 - (p) prescribing the manner of service of any notices or orders under this Act; 20
 - (q) generally prescribing any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) No regulation may be made under this Act shortening the length of a current registration period but a regulation may be made that increases the length of a current registration period and, on such a regulation being made, the registration period so altered expires on the expiry date stated in the regulation. 25
- (3) A power conferred by this Act to make regulations may be exercised— 30
- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or class of case;
 - (b) so as to make, as respects the cases in relation to which it is exercised— 35
 - (i) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or classes of case, or different provisions for the same case or class of case for different purposes; or 40
 - (ii) any such provision either unconditionally or subject to any specified condition.
- (4) Regulations made under this Act may be made—
- (a) so as to apply—
 - (i) at all times or at a specified time; or 45

- (ii) throughout the whole of the State or in a specified part of the State; or
- (iii) as specified in both sub-paragraphs (i) and (ii) ;
- 5 (b) so as to apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body whether—
- (i) wholly or partially or as amended by the regulations; or
- 10 (ii) as formulated, issued, prescribed or published—
- (A) from time to time, if formulated, issued, prescribed or published by the Standards Association of Australia or the National Health and Medical Research Council; or
- 15 (B) at the time the regulations are made or at any time before then, in any other case;
- (c) so as to confer a discretionary authority or impose a duty on a specified person or body or a specified class of persons or bodies;
- 20 (d) so as to impose a penalty not exceeding 10 penalty units for a contravention of the regulations.

Guidelines.

35 35. (1) The Minister may issue guidelines with respect to all animal preparations or any particular animal preparation or class of animal preparations.

(2) The Minister must cause any guidelines issued under sub-section (1) to be published in the *Government Gazette*.

PART 6—REPEALS, AMENDMENTS AND TRANSITIONAL PROVISIONS

30 Repeals and amendments.

36. (1) The *Stock Foods Act* 1958 is repealed.

(2) The *Stock Medicines Act* 1958 is repealed.

(3) The *Sheep Branding Fluids Act* 1963 is repealed.

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(4) Section 3 (1) of the *Agricultural Chemicals Act* 1958 is amended as follows:

No. 6383.
Reprinted to No. 9005.

No. 6384.
Reprinted to No. 9549.
Subsequently amended by No. 10262.

No. 7001.
Reprinted to No. 9549.

No. 6257.
Reprinted to No. 9368

- (a) In the definition of “Agricultural chemical”, after “to be an agricultural chemical” insert “but does not include an animal preparation within the meaning of the *Animal Preparations Act 1987*”;
- (b) In the definition of “Fungicide”, paragraph (c) is repealed; 5
- (c) The definition of “Stock” is repealed;
- (d) The definition of “Stock pesticide” is repealed.

(5) The *Drugs, Poisons and Controlled Substances Act 1981* is amended as follows:

- (a) In section 7 for “the *Stock Medicines Act 1958*” substitute “the *Animal Preparations Act 1987*”; 10
- (b) In Schedule Six—
 - (i) in paragraph (1) (b) of the entry relating to ANTIBIOTIC substances, for “stock medicines under the *Stock Medicines Act 1958*” substitute “animal preparations under the *Animal Preparations Act 1987*”; 15
 - (ii) in the entry relating to SULPHONAMIDES and TETRACYCLINES—
 - (A) in paragraph (1) (a) for “stock foods under the *Stock Foods Act 1958*” substitute “animal preparations under the *Animal Preparations Act 1987*”; 20
 - (B) in paragraph (2) (a) for “stock medicines under the *Stock Medicines Act 1958*” substitute “animal preparations under the *Animal Preparations Act 1987*”. 25

(6) In section 15 (3) of the *Stock Diseases Act 1968*, for paragraph (b) substitute—

“(b) animal preparations registered under the *Animal Preparations Act 1987*.”. 30

(7) In section 15 (3) of the *Veterinary Surgeons Act 1958* for “a stock medicine registered under the *Stock Medicines Act 1958*” substitute “an animal preparation registered under the *Animal Preparations Act 1987*”.

No 9719
Reprinted to
No 10002
Subsequently
amended by
Nos 10262,
16/1986,
21/1986,
101/86 and
110/86
and by S.R
No 268/1985

No 7724
Reprinted to
No 8775
Subsequently
amended by
No 9549

No 6410
Reprinted to
No 7343
Subsequently
amended by
Nos 7599, 8221,
8689, 8974,
9576, 9829, 9945
and 10244

Stock Medicines Board to continue in existence temporarily.

37. (1) The Stock Medicines Board established under the *Stock Medicines Act* 1958 continues to exist until section 22 of this Act comes into operation.

5 (2) Sub-section (1) has effect despite the fact that the Public Bodies Review Committee in its final report with respect to the Stock Medicines Board laid before both Houses of the Parliament on 8 May 1986 recommended that the Board should cease to exist.

10 (3) The provisions of section 4p (4) of the *Parliamentary Committees Act* 1968 do not apply to the report referred to in sub-section (2) of this section.

Transitional provisions.

15 38. (1) Any animal preparation that immediately before the commencement of this sub-section was registered under the *Stock Foods Act* 1958, the *Stock Medicines Act* 1958 or the *Agricultural Chemicals Act* 1958 or is approved under the *Sheep Branding Fluids Act* 1963 is to be taken to be registered under this Act until the date on which the first registration period in relation to that animal preparation under this Act commences unless its registration is sooner cancelled under
20 this Act.

(2) A person is not entitled to a refund in respect of any fee paid for the issue or renewal of a registration or approval under any Act other than this Act if by virtue of this Act that registration or approval ceases to have effect earlier than it would have if this Act or any
25 provision of this Act had not been passed and proclaimed to come into operation.

(3) A person who immediately before the commencement of this sub-section was an officer or inspector for the purposes of the *Stock Foods Act* 1958, the *Stock Medicines Act* 1958, the *Sheep Branding Fluids Act* 1963 or the *Agricultural Chemicals Act* 1958 is to be taken
30 to be an authorised officer for the purposes of this Act and the regulations.

(4) A person who immediately before the commencement of this sub-section was an analyst appointed for the purposes of the *Agricultural Chemicals Act* 1958 is to be taken to be an approved analyst within the
35 meaning of this Act.

(5) Any application which before the commencement of this sub-section was made under the *Stock Foods Act* 1958, the *Stock Medicines Act* 1958 or, with respect to a stock pesticide, the *Agricultural Chemicals Act* 1958 but which had not been determined before that
40 commencement is to be determined, so far as possible, in accordance with this Act as if it had been made under this Act.

(6) On the commencement of section 22 of this Act the Stock Medicines Board established under the *Stock Medicines Act* 1958 shall

be abolished and the members of that Board in office immediately before that commencement shall go out of office.

(7) Except as in this Act expressly or by necessary implication provided, all persons, things and circumstances appointed or created by or under any Act repealed or amended by this Act or existing or continuing under any such Act immediately before the commencement of this sub-section continue, under and subject to this Act, to have the same status, operation and effect as they respectively would have had if that Act had not been repealed or amended.

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