

Stock (Artificial Breeding) Act 1985

As at 21 June 2004

Does not include amendments by:

Law Enforcement (Powers and Responsibilities) Act 2002 No 103 (amended by the *Stock Diseases Amendment (Artificial Breeding) Act 2004 No 35*) (not commenced)

Note:

The Act is to be repealed on the commencement of sec 5 of the *Stock Diseases Amendment (Artificial Breeding) Act 2004 No 35*.

Reprint history:

Reprint No x 28 October 1991

Long Title

An Act to make provision with respect to the artificial breeding of stock; to repeal the *Stock (Artificial Insemination) Act 1948*; and for other purposes.

Part 1 - Preliminary

1 Name of Act

This Act may be cited as the *Stock (Artificial Breeding) Act 1985*.

2 Commencement

- (1) Sections 1 and 2 shall commence on the date of assent to this Act.
- (2) Except as provided by subsection (1), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

3 Application of Act

- (1) This Act binds the Crown.
- (2) This Act does not operate so as to make it unlawful for the owner of stock or an employee of the owner:
 - (a) to collect semen or ova from the stock,
 - (b) to process, handle or store semen or ova from the stock, or
 - (c) to perform on the stock any artificial breeding procedure with semen that has been, or ova that have been, collected from that stock or which is semen that has been, or ova that have been:
 - (i) collected in the State from stock on licensed premises or introduced into the State in accordance with this Act, and
 - (ii) processed, handled and stored in accordance with this Act and the regulations,on premises occupied by the owner of the stock, notwithstanding that those premises are not licensed under this Act.
- (3) In subsection (2), a reference to the owner of stock is a reference to:
 - (a) one natural person who holds all interests in the stock,
 - (b) each of the members of a partnership of which all the members are natural persons, not more than 4 of whom are of or above the age of 18 years, being a partnership the members of which jointly hold all interests in the stock,

(c) a body corporate which holds all interests in the stock, where not more than 4 natural persons hold all interests in the body corporate,

(c1) a member of a family:

(i) which owns all interests in the stock, whether or not through a partnership consisting of members of the family only, or

(ii) which wholly owns a company that owns all interests in the stock, and

(d) any other person and persons of any class, in each case approved by the Director-General as owners of stock for the purposes of that subsection.

(4) (Repealed)

(5) This Act does not operate so as to exempt the holder of a licence or an approval or any other person from complying with any requirement made by or under any other Act.

(6) It is not an offence under this Act for a person to collect semen or ova from any stock for research, education, examination or disease testing or for any other purpose not associated with artificial breeding even though the stock may not be on licensed premises when the semen is, or ova are, collected.

4 Definitions

(1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

approval means an approval issued under Part 2 and in force.

artificial breeding procedure means each of the procedures of collecting, processing, handling, storing and distributing semen or ova and includes artificial insemination and ovum transfer.

artificial insemination means any operation, other than mating, by which semen is introduced into the reproductive tract of female stock to induce pregnancy.

collect , in relation to semen or ova, includes assess the semen or ova in the course of collecting the semen or ova.

Director-General means the person for the time being holding or acting in the office of Director-General of the Department of Agriculture.

disease , in relation to a species of stock, means any disease of stock for the time being declared to be a disease in that species for the purposes of this Act by an order of the Minister published in the Gazette.

Note: For declared diseases see the Historical notes at the end of this Act.

distribute includes supply, send, deliver, give, donate and despatch by any means, whether or not in return for consideration.

handle , in relation to semen or ova, means touch, remove or otherwise interfere with:

(a) the semen or ova, or

(b) any receptacle containing the semen or ova (otherwise than as a normal incident of transporting any such receptacle),

after the semen has, or the ova have, been processed.

inspector means a person appointed as inspector under the *Stock Diseases Act 1923* .

introduce includes import.

licence means a licence issued under Part 2 and in force.

licensee means the holder for the time being of a licence.

licensed premises means premises that are subject to a licence.

occupier , in relation to premises:

(a) includes a person in charge of the premises as a manager or lessee or otherwise, and

(b) where the premises are subject to a licence, includes the holder of the licence.

ova means:

(a) germ cells of female stock, or

(b) cells of female stock that can develop into new members of the same species after maturation and fertilisation,

and includes fertilised cells, embryos and foetuses up to the first third of pregnancy, but does not include cells or embryos of an avian species of stock.

ovum transfer means any operation by which an ovum is collected from female stock and implanted in other female stock either by way of an intermediate host animal or otherwise.

premises includes any place.

process , in relation to semen or ova, means any procedure (including assessing, diluting, chilling, freezing and packing) carried out in the course of preparing collected semen or ova for use in artificial insemination or, as the case may be, ovum transfer, but does not include the thawing of that semen or those ova immediately prior to that use.

regulation means a regulation made under this Act.

sell includes:

(a) barter or exchange,

(b) agree to sell,

(c) offer or expose for sale,

(d) have in possession for sale, and

(e) send, forward, or deliver for or on sale.

semen means the fluid produced by the reproductive organs of male stock and includes:

(a) any part of that fluid, and

(b) spermatozoa in any fluid or frozen medium.

stock means cattle, horses, sheep, goats, swine, deer, buffalo, poultry and any other species of animal for the time being declared to be stock for the purposes of this Act by an order of the Minister published in the Gazette.

superintendent , in relation to premises, means the holder of a supervisor's approval for the premises.

supervisor's approval means an approval referred to in section 11.

vehicle includes aircraft of any type.

veterinary surgeon means a person registered or provisionally registered under the *Veterinary Surgeons Act 1923* .

(2) In this Act, a reference to a technical aspect of an artificial breeding procedure is a reference to anything prescribed by the regulations as a technical aspect of the procedure.

Part 2 - Licences and approvals

Division 1 - Licensing of premises

5 Premises to be licensed

A person shall not carry out any artificial breeding procedure on stock of any species unless the person does so on premises the use of which for the carrying out of that procedure on stock of that species is authorised by a licence.

Penalty: 20 penalty units.

6 Issue of licences

(1) A licence for premises shall not be issued unless the Director-General is satisfied that the premises conform to the prescribed standards.

(2) Different premises shall each be the subject of a separate application and a separate licence or separate licences.

7 Particulars to be specified in licences

(1) A licence for premises shall specify the premises which are subject to the licence and shall be of one of the following classes as specified in the licence:

- (a) Artificial Breeding Centre Licence,
- (b) Distribution Centre Licence,
- (c) Ovum Transfer Centre Licence.

(2) A licence for premises shall relate to one species of stock specified in the licence.

(3) Licences of the different classes referred to in subsection (1) and separate licences relating to different species of stock may be held concurrently for the same premises.

8 Duration of licences

A licence for premises issued pursuant to an application made under this Act shall, unless sooner cancelled or surrendered, remain in force for the whole or the residue, as the case may be, of the prescribed licence period of 3 years which is current when the licence first takes effect.

9 Authority conferred by licences

(1) An Artificial Breeding Centre Licence authorises the use under this Act of the premises which are subject to the licence for the carrying out of any artificial breeding procedure on stock of the species to which the licence relates.

(2) A Distribution Centre Licence authorises the use under this Act of the premises which are subject to the licence for the handling, storing and distributing of semen or ova, or of semen and ova, of stock of the species to which the licence relates.

(3) An Ovum Transfer Centre Licence authorises the use under this Act of the premises which are subject to the licence for the procedure of collecting ova and the operation of ovum transfer on stock of the species to which the licence relates.

Division 2 - Supervision

10 Technical aspects and restricted activities to be supervised

(1) Each occupier of premises at which an artificial breeding procedure is carried out commits an offence against this Act if any technical aspect of the procedure is not carried out or directly supervised by the holder of a supervisor's approval which authorises the

holder to supervise the carrying out of that technical aspect at those premises.

(2) Each occupier of premises at which an activity being or forming part of an artificial breeding procedure which is prescribed as a restricted activity is carried out commits an offence against this Act if the activity is not carried out or directly supervised by a veterinary surgeon.

(3) A person who commits an offence under this section is punishable upon conviction by a penalty not exceeding 20 penalty units.

11 Issue of supervisors' approvals

An approval authorising a person to supervise technical aspects of artificial breeding procedures at premises specified in the approval is not to be issued to any person other than a veterinary surgeon.

Divisions 3, 4 - (Repealed)

Division 5 - General

19 Definition

In this Division:

authority means a licence or an approval.

20 Applications

(1) An application for the issue, renewal, variation or transfer of an authority shall be made to the Director-General in the prescribed manner and accompanied by the prescribed fee.

(2) The application shall be considered by the Director-General who may grant or refuse the application.

(3) Where the application has not been granted or refused:

(a) within 60 days of the application's having been made, or

(b) within such longer period as may be agreed between the Director-General and the applicant,

the application shall be deemed to have been refused.

(4) Where the application is granted, a licence or an approval, as the case may require, shall be issued by the Director-General.

21 Terms and conditions

(1) An authority is subject to:

(a) the terms and conditions prescribed in respect of the authority,

(b) the terms and conditions specified in the authority when it is issued, and

(c) any terms and conditions imposed by the Director-General upon the authority in accordance with the regulations after it has been issued,

as may be varied from time to time in accordance with the regulations.

(2) The terms and conditions to which an authority is for the time being subject have effect notwithstanding sections 9, 15 and 17 (2).

22 Duration

Subject to this Act, an authority shall remain in force for such period as is prescribed and may be renewed from time to time.

23 Suspension and cancellation

(1) The Director-General may, by notice in writing served personally or by post on the holder of an authority, suspend the authority for a period of not more than 60 days specified in the notice or cancel the authority at any time:

(a) if the holder commits an offence against this Act, the *Stock Diseases Act 1923* or the regulations made under this Act or that Act,

- (b) if the holder fails to comply with any term or condition of the authority or of any other authority, being a term or condition applicable to the holder,
- (c) if the authority was issued pursuant to a false or misleading document, statement or representation,
- (d) if for any other reason the Director-General is of the opinion that the holder is not a fit and proper person to hold the authority or that it is in the interest of livestock improvement that the authority be suspended or cancelled, as the case may be,
- (e) if the holder requests the suspension or cancellation of the authority, as the case may be, or
- (f) if the authority was issued in error.

(2) Where an authority has been suspended, the Director-General shall return it to the former holder on the expiration of the period of suspension.

24 Applications to Administrative Decisions Tribunal

A person aggrieved by any of the following decisions may apply to the Administrative Decisions Tribunal for a review of the decision:

- (a) the refusal of an application for the issue, renewal, variation or transfer of, or by the suspension or cancellation by the Director-General of, any authority, or
- (b) the terms or conditions specified in or imposed by the Director-General on any authority or by the variation by the Director-General of any such term or condition, otherwise than with the written consent of the licensee.

Part 3 - Supplementary

Division 1 - Offences

25 Importation from a State or Territory

(1) A person shall not introduce into the State any semen or ova from any other State or a Territory of the Commonwealth unless:

- (a) the person is the holder of an approval granted under subsection (2) and does so in accordance with the terms and conditions of the approval, or
- (b) the person is authorised to do so by the regulations.

Penalty: 20 penalty units.

(2) On application made in the prescribed manner, the Director-General may:

- (a) approve in writing the introduction into the State of semen or ova specified in the approval, and
- (b) specify in the approval the terms and conditions to which the introduction shall be subject.

26 Importation from other countries

A person shall not introduce into the State any semen or ova from any other country unless:

- (a) the semen was, or ova were, imported into Australia in accordance with the *Quarantine Act 1908* of the Commonwealth,
- (b) the semen was, or ova were, collected and processed on premises which conform to standards satisfactory to the Minister, and
- (c) the semen or ova originated from stock which are of such a standard that, in the opinion of the Minister, the introduction of the semen or ova would not be deleterious to the breeding of stock in the State.

Maximum penalty: 20 penalty units.

27 Prohibition of importation

(1) The Governor may, by order published in the Gazette, prohibit the introduction into the State of semen or ova obtained from stock of the species specified in the order, or from individual stock so specified, from any other State or a Territory of the Commonwealth or

any other country specified in the order where the Governor has reason to believe:

- (a) that any disease or other disorder affecting the suitability of stock for use in artificial breeding exists in the stock in that State, Territory or country or exists in the individual stock, as the case may be,
- (b) that the semen is not, or ova are not, of a genetic standard at least equal to that required by the regulations in relation to semen or ova collected in the State for the purpose of artificial breeding, or
- (c) that the introduction of the semen or ova would adversely affect the breeding of stock in the State.

Note: An order was made under this section in Gazette No 57 of 4.5.1990, p 3619.

(2) An order made under this section may prohibit the introduction into the State of semen or ova unconditionally or only in such circumstances as are specified in the order.

(3) Notwithstanding sections 25 and 26, a person shall not introduce into the State semen or ova if the introduction of the semen or ova is prohibited by an order in force under this section.

Maximum penalty (subsection (3)): 20 penalty units.

28 Stock to comply with certain requirements

A person shall not:

- (a) use any stock in, or in connection with, an artificial breeding procedure, or
- (b) keep any stock for the purpose of their being so used,

unless the stock comply with the prescribed standards relating to the quality of the stock.

Penalty: 20 penalty units.

29 Offences relating to semen and ova

A person shall not:

- (a) use, or cause or permit to be used, in any artificial breeding procedure, or
- (b) sell or cause or permit to be sold or otherwise distribute,

any semen or ova if the person knows or has reasonable cause to believe:

- (c) that the semen has, or the ova have, been introduced into the State in contravention of this Act, or
- (d) that the semen has, or the ova have, been processed, handled or stored in contravention of this Act or the regulations, or
- (e) that the semen has been collected in the State from stock on unlicensed premises, or
- (f) that the semen is not, or the ova are not, identified in the prescribed manner.

Penalty: 20 penalty units.

30 Offences relating to licences and approvals

(1) A person shall not:

- (a) by act or omission, contravene any of the terms or conditions of any licence or approval, or
- (b) without reasonable excuse, fail to surrender upon request of the Director-General or of an inspector a licence or approval that has been suspended or cancelled under this Act or the regulations.

Penalty: 10 penalty units.

(2) A person shall not:

- (a) falsely advertise or claim to hold a licence or approval issued under this Act or the regulations,
- (b) alter in any material respect any licence or approval issued under this Act or the regulations or use any such altered licence or approval,
- (c) produce or sign any licence or approval issued under this Act or the regulations knowing it to be false in any material particular, or
- (d) impersonate a person named in any licence or approval issued under this Act or the regulations.

Penalty (subsection (2)): 20 penalty units.

31 Offences relating to inspectors

(1) A person shall not:

- (a) assault, obstruct, hinder, threaten, abuse, insult or intimidate an inspector in the exercise of the inspector's powers or authorities or the discharge of the inspector's duties or functions under this Act,
- (b) fail or refuse to comply with any direction given under this Act by an inspector,
- (c) without reasonable excuse, fail or refuse to answer any question authorised under this Act to be put by an inspector or give a false or misleading answer to any such question,
- (d) fail or refuse to render assistance or fail or refuse to furnish information required by or under this Act to be furnished or, in purporting so to furnish information, furnish information that is false or misleading in a material particular,
- (e) fail or refuse without reasonable excuse, proof of which shall lie upon the person:

- (i) to produce for examination at the request of an inspector any licence or approval issued to the person under this Act or the regulations, or

- (ii) to produce for examination at the request of an inspector any register, book, record, account or document required to be kept or made by the person by or under this Act,

or fail or refuse to allow an inspector to make a copy of or take an extract from any such licence, approval, register, book, record, account or document so produced,

- (f) prevent, or attempt to prevent, a person from appearing before or being questioned by an inspector, or

- (g) impersonate an inspector.

Penalty: 20 penalty units.

(2) A person is not guilty of an offence against this Act because of a failure or refusal referred to in subsection (1) unless it is established that the inspector concerned:

- (a) identified himself or herself as an inspector to the person, and

- (b) warned the person that the failure or refusal, as the case may be, is an offence.

Division 2 - Inspection

32 Powers of inspectors

(1) For the purposes of this Act, an inspector may, with or without assistants, at any reasonable time:

- (a) except as provided by subsection (2), enter any licensed premises or any other place (including land or a building, or a place on or in a vehicle or vessel) that the inspector believes, on reasonable grounds, is being or is likely to be used for or in connection with an artificial breeding procedure or where the inspector believes, on reasonable grounds, that a provision of this Act or the regulations has been or is being contravened,

- (b) with respect to any such premises or place, make such inquiries, investigations or searches as are necessary to ascertain whether the provisions of this Act and the regulations are being complied with,

- (c) request a person to produce for examination by the inspector any licence or approval issued to the person under this Act or the regulations, or alleged by the person to have been so issued, and any registers, books, records, accounts or documents required to be kept or made by the person under this Act or the regulations,

- (d) examine any article produced pursuant to paragraph (c) and make copies of or take extracts from any such article,

- (e) examine any equipment, apparatus, utensils, diluents, additives, extenders or materials found at any such premises or place,

- (f) examine and test, or direct the occupier of any such premises or place to test, any

- stock found on the premises or at the place and take, or direct the occupier of the premises or place to take, a specimen of any kind from any such stock,
- (g) examine, or cause to be examined, any semen or ova found on any such premises or at any such place or seized or detained pursuant to section 35,
- (h) open any such premises or place, and any container or package, containing, or believed by the inspector on reasonable grounds to contain, semen or ova or materials used in the processing thereof,
- (i) with the approval of the Director-General, seize any registers, books, records, accounts or documents produced or found on any such premises or at any such place, where the inspector believes, on reasonable grounds, that the registers, books, records, accounts or documents are connected with any artificial breeding procedure and in respect of which the inspector suspects, on reasonable grounds, that an offence against this Act or the regulations has been committed,
- (j) with the approval of the Director-General, seize or detain any stock in respect of which the inspector suspects, on reasonable grounds, that an offence against this Act or the regulations has been committed,
- (k) question any person found on any such premises or at any such place and require the person to answer any questions put to the person in relation to the use of those premises or of that place,
- (l) require a person referred to in paragraph (k) to state the person's full name and residential address to the inspector and (if the inspector suspects, on reasonable grounds, that a name or address so stated is false) require the person to produce evidence of its correctness,
- (m) stop, detain and search any vehicle or vessel which is being used or which the inspector believes, on reasonable grounds, is being used for the carriage of semen or ova,
- (n) take, in the prescribed manner, a sample of semen or ova, any package containing semen or ova or any materials used in the processing thereof for the purpose of examination, testing or analysis,
- (o) remove any semen or ova, any materials used in the processing thereof or any stock seized under this Act to such place as the inspector thinks fit, or cause it or them to be so removed,
- (p) by order in writing, direct a person who has failed to comply with this Act or the regulations to take, within such time as is stated, specified action to correct those matters in respect of which the non-compliance has occurred, and
- (q) use such assistance or force as is necessary in the exercise of the powers and authorities conferred or the discharge of the duties and functions imposed on the inspector by this Act.
- (2) An inspector may not exercise the powers conferred by subsection (1) in relation to a dwelling-house except:
- (a) with the permission of the occupier of the dwelling-house, or
- (b) under the authority conferred by a search warrant issued under section 33.
- (3) Any stock detained in pursuance of this section may, with the approval of the Minister, be condemned and destroyed.
- (4) Stock detained in pursuance of this section shall be returned to the person from whom they were seized or to any other person who appears to the Minister to be their owner if they are not destroyed under subsection (3) before the expiration of the prescribed period.
- (5) No compensation is payable in respect of any stock destroyed or sample taken pursuant to this section.

33 Search warrant

- (1) In this section:

authorised justice has the same meaning as in the *Search Warrants Act 1985* .

(2) An inspector may apply to an authorised justice for a search warrant if the inspector has reasonable grounds for believing that a provision of this Act or the regulations has been or is being contravened in any dwelling-house.

(3) An authorised justice to whom an application is made under subsection (2) may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector named in the warrant, when accompanied by a member of the police force:

- (a) to enter the dwelling-house, and
- (b) to search the dwelling-house for evidence of a contravention of this Act or the regulations.

(4) Part 3 of the *Search Warrants Act 1985* applies to a search warrant issued under this section.

34 Orders

(1) The holder of a licence for licensed premises on or in which an inspector finds that any plant, machinery, equipment, apparatus, utensil, additive, extender, diluent, material or other thing used or intended to be used for or in connection with an artificial breeding procedure:

- (a) is in an unclean or unserviceable condition,
- (b) does not conform to the prescribed standards, or
- (c) is otherwise unfit for the purpose for which it is used or intended to be used,

shall, where directed so to do by an order in writing served on the holder by the inspector, ensure that the plant, machinery, equipment, apparatus, utensil, additive, extender, diluent, material or other thing specified in the order is not used for or in connection with an artificial breeding procedure during the period specified in the order or, where no period is so specified, until the inspector is satisfied that it is fit for that use.

Penalty: 10 penalty units.

(2) An order under subsection (1) may require the holder of a licence:

- (a) to carry out such cleaning as is specified in the order in the manner so specified, and
- (b) to carry out such servicing or remedy such defect as is specified in the order in the manner so specified.

(3) The holder of a licence for licensed premises on or in which an inspector finds that any stock that are used or intended to be used for or in connection with an artificial breeding procedure are infected or reasonably suspected by the inspector of being infected with any disease or other disorder affecting the suitability of the stock for use in artificial breeding shall, when required so to do by an order in writing served on the holder by the inspector, ensure:

- (a) that the stock are not used for that purpose but are treated, isolated, moved, destroyed or otherwise dealt with as specified in the order, and
- (b) that the premises are not used for or in connection with an artificial breeding procedure during the period specified in the order or until the inspector is satisfied that the premises and the stock comply with the prescribed standards.

Penalty: 20 penalty units.

(4) An inspector may not, pursuant to subsection (3), order the destruction of stock without the approval of the Minister.

35 Seizure of semen or ova

(1) An inspector may, with the approval of the Director-General, seize and detain:

- (a) any semen that is, or ova that are, reasonably suspected by the inspector:
 - (i) to have been introduced into the State in contravention of this Act,
 - (ii) to have been used, or sold or otherwise distributed, in contravention of this Act or the regulations,

- (iii) to be diseased or infected with disease,
 - (iv) to be, in the opinion of the Minister, otherwise unsuitable for use in the artificial breeding of stock, or
 - (v) to have been otherwise involved in a contravention of this Act or the regulations, or
 - (b) any additive, extender, diluent or other material used or intended to be used in connection with the processing of semen or ova that fails, or that the inspector, on reasonable grounds, suspects would fail, to comply with any prescribed standard or that, in the opinion of the Director-General, is unsuitable for that use by reason of its composition.
- (2) An inspector may, with the approval of the Director-General, seize semen or ova or material used in the processing thereof in pursuance of this section only if, when the inspector seizes it, the inspector tenders a notice in writing in the prescribed form to the person in possession of the semen, ova or material when it is or they are seized.
- (3) Any semen or ova or material used in the processing thereof detained in pursuance of this section may, with the approval of the Minister, be condemned and destroyed.
- (4) Semen or ova or material used in the processing thereof detained in pursuance of this section shall be returned to the person from whom it was or they were seized or to any person who appears to the Minister to be the owner thereof if it is not or they are not destroyed under subsection (3) before the expiration of the prescribed period.
- (5) No compensation is payable in respect of anything destroyed pursuant to this section.

Division 3 - Miscellaneous

36 Proceedings for offences

- (1) Proceedings for an offence against this Act or the regulations may be taken before a Local Court constituted by a Magistrate sitting alone.
- (2) Proceedings for an offence against this Act may be brought at any time within 2 years after the date on which the offence was committed.

37 Evidentiary provisions

In a proceeding for the purposes of this Act or the regulations:

- (a) it shall not be necessary, in the absence of evidence to the contrary, to prove the appointment of the Director-General, or of any inspector, or of any such person's authority to do any act, take any proceeding or give any direction or order,
- (b) a signature purporting to be that of the Minister, the Director-General or an inspector shall be taken to be the signature it purports to be until the contrary is proved,
- (c) a document purporting to be a copy of a licence, an approval, a permit, an order or a notice issued or made under this Act or the regulations, shall, upon its production in that proceeding, be evidence and, in the absence of evidence to the contrary, be conclusive evidence of the particulars of that licence, approval, permit, order or notice, and
- (d) a document purporting to be signed by the Director-General stating that at a specified time or during a specified period there was or was not in force a licence, an approval, a permit or an order under this Act or the regulations, as described in the document, issued to a specified person or published in the Gazette in respect of a specified thing and that the licence, approval, permit or order was or was not subject to the terms or conditions set out in the document shall, upon its production in that proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the document.

38 Offences by corporations

- (1) Where a corporation contravenes, whether by act or omission, any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation shall be deemed to have contravened the same provision unless the person satisfies the court that:

- (a) the corporation contravened the provision without the knowledge of the person,
- (b) the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provisions, or
- (c) the person, being in such a position, used all due diligence to prevent the contravention by the corporation.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or been convicted under that provision.

(3) Nothing in subsection (1) prejudices or affects any liability imposed by a provision of this Act or a regulation on any corporation by which an offence against the provision is actually committed.

39 Liability of employers

(1) Where any person, as the employee of another person (who is in this section referred to as **the employer**) contravenes any provision of this Act or the regulations, the employer shall be deemed to have contravened the same provision unless the employer satisfies the court that:

- (a) the employer did not authorise or permit the contravention by the employee, and
- (b) the employer used all due diligence to prevent the contravention.

(2) The employer may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the employee has been proceeded against or been convicted under that provision.

(3) Nothing in subsection (1) prejudices or affects any liability imposed by a provision of this Act or a regulation on any person by whom an offence against the provision is actually committed.

40 Delegation by Director-General

(1) The Director-General may delegate to a person the exercise of any of the functions of the Director-General under this Act, other than this power of delegation.

(2) A delegation under this section:

- (a) shall be in writing,
- (b) may be general or limited, and
- (c) may be revoked, wholly or partly, by the Director-General.

(3) A delegate is, in the exercise of a function delegated under this section, subject to such conditions as are specified in the instrument of delegation.

(4) A function delegated under this section, when exercised by the delegate, shall be deemed to have been exercised by the Director-General.

(5) A delegation under this section does not prevent the exercise of a function by the Director-General.

(6) A function purporting to have been exercised by a delegate under this section shall, until the contrary is proved, be deemed to have been duly exercised by a delegate under this section.

(7) In this section:

- (a) a reference to a function includes a reference to a power, an authority and a duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

41 Refund

(1) Where a licence issued under Part 2 is cancelled upon the request of the holder or as a result of its having been issued in error, a refund of the fee paid shall, upon application to the Director-General, be made to the former holder of the licence.

(2) The amount of a refund made under subsection (1) shall be the same proportion of the fee paid as the proportion that the number of unexpired months for which the licence was issued bears to the total number of months for which it was issued.

42 Regulations

(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:

- (a) the forms to be used for the purposes of this Act,
- (b) the issue, duration, transfer, renewal, cancellation and suspension of licences, approvals and permits under this Act or the regulations,
- (c) the terms and conditions of any such licence, approval or permit, and the variation of any such terms and conditions,
- (d) the fees payable in respect of the issue, renewal, transfer or variation of any such licence, approval or permit,
- (e) the exemption (whether by the issue of permits or otherwise) of persons, premises and stock from requirements of this Act or the regulations, and
- (f) any matter described in Schedule 2.

(2) A regulation may impose a penalty not exceeding 10 penalty units for any contravention of the regulation.

(3) A provision of a regulation may:

- (a) apply generally or be limited in its application by reference to specified exceptions or factors,
- (b) apply differently according to different factors of a specified kind, or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

43 Repeal of Act No 11, 1948

(1) The *Stock (Artificial Insemination) Act 1948* is repealed.

(2) Schedule 3 has effect.

Note: See Gazette No 57 of 4.5.1990, p 3618 for revocation of proclamations under the *Stock (Artificial Insemination) Act 1948*.

44 (Repealed)

Schedule 1 (Repealed)

Schedule 2 Matters for regulations

(Section 42 (1))

1 Licensed premises

In relation to premises which are subject to a licence:

- (a) the location, design, construction and suitability of buildings, enclosures, fences and other structures on the premises,
- (b) the drainage, ventilation, lighting, cleansing and maintenance of the premises,
- (c) the use of buildings, enclosures and other structures for stock or for any artificial breeding procedure,
- (d) the provision, suitability and use of any equipment or materials in or on the premises or in or used in connection with any vehicle or vessel associated with the use of the premises,
- (e) the designation and identification of equipment, buildings, enclosures and other structures intended for a particular use for the purposes of this Act or the regulations,
- (f) the restriction of the use of the premises or parts of the premises solely for specific purposes,
- (g) the prohibition of the use of the premises or parts of the premises for specified purposes or for purposes other than specified purposes,

(h) the prohibition of, or the regulation of the movement of, species of stock or particular stock on the premises.

2 Licences or approvals

In relation to licences or approvals under this Act or the regulations and applicants for, or holders of, any such licence or approval:

- (a) the qualifications, experience and suitability of an applicant for the issue of any such licence or approval to the applicant,
- (b) the tests or examinations required to demonstrate knowledge or skills,
- (c) the duties of licensees, superintendents and other persons holding any such licence or approval,
- (d) the making and keeping of records,
- (e) the furnishing of returns, statements, lists and other documents,
- (f) the issue and effect of provisional approvals under the regulations.

3 Stock used in connection with artificial breeding

In relation to stock used or intended to be used in connection with artificial breeding:

- (a) standards and conditions applicable:
 - (i) to the stock,
 - (ii) to, and in connection with the processing of, semen and ova, and
 - (iii) to any artificial breeding procedure,
- (b) the health testing of the stock,
- (c) the diseases and other disorders affecting the suitability of stock for use in artificial breeding, and the specific genetic traits, required to be absent from any such stock.

4 Semen and ova

In relation to semen and ova:

- (a) the manner of and conditions relating to the collection, appraisal, dilution, identification, chilling, freezing, processing, handling and storing of semen and ova,
- (b) the sale and distribution of semen and ova,
- (c) the exportation from or introduction into the State of semen and ova,
- (d) the composition of extenders, diluents and additives used for any purpose in connection with artificial breeding and their use for any such purpose.

5 Courses of instruction

In relation to courses of instruction with respect to artificial breeding:

- (a) the subject matters to be included in any such course,
- (b) the duration of any such course and methods of assessment of participants.

Schedule 3 Savings and transitional provisions

(Section 43 (2))

1 Interpretation

In this Schedule:

former Act means the *Stock (Artificial Insemination) Act 1948* .

2 Proclamations

A proclamation made under section 7 of the former Act and in force immediately before the commencement of section 27 shall be deemed to be an order made under section 27.

3 Licences and certificates of competency

(1) In this clause:

relevant day means the day on which Division 5 of Part 2 commences.

(2) A licence issued or renewed under the former Act and in force immediately before the relevant day shall be deemed to be a licence issued under this Act and:

(a) where the licence authorised the use of premises for the collection, storage and packing for sale of semen--shall be deemed to be an Artificial Breeding Centre Licence, or

(b) where the licence authorised the use of premises for the storage and packing for sale of semen--shall be deemed to be a Distribution Centre Licence.

(3) Where a licence referred to in subclause (2) was, immediately before the relevant day, subject to any terms or conditions pursuant to section 4 (5) of the former Act, those terms or conditions shall, to the extent that the terms or conditions could be imposed under this Act, be deemed to have been specified in the licence pursuant to section 21 (1) (b) when it was issued.

(4) A certificate of competency issued under the *Stock (Artificial Insemination) Regulations* and in force immediately before the relevant day shall be deemed to be a certificate of competency issued under this Act and:

(a) where the certificate was issued under Regulation 4A (1) of those Regulations or was continued in force as if it had been so issued--shall be deemed to be a Class "A" certificate of competency relating to the semen of cattle,

(b) where the certificate was issued under Regulation 4A (2) of those Regulations--shall be deemed to be a Class "B" certificate of competency relating to the semen of cattle,

(c) where the certificate was issued under Regulation 16 of those Regulations--shall be deemed to be a Class "C" certificate of competency authorising the holder to carry out artificial insemination on cattle,

(d) where the certificate was issued under Regulation 19 of those Regulations--shall be deemed to be a Class "A" certificate of competency relating to the semen of sheep and a Class "C" certificate of competency authorising the holder to carry out artificial insemination on sheep.

(5) A licence referred to in subclause (2) or a certificate of competency referred to in subclause (4) shall, subject to this Act, continue in force:

(a) until the expiration of the period for which it was issued or last renewed, as the case may be, pursuant to the former Act or the *Stock (Artificial Insemination) Regulations*, as a licence or certificate of competency under that Act or those Regulations, or

(b) where the regulations so provide and the prescribed additional fee, if any, has been paid, until the expiration of such longer period as may be prescribed.

4 Saving of certain regulations

(1) Regulations made under the former Act and in force immediately before the commencement of section 42 shall, to the extent that the regulations could be made under this Act, be deemed to be regulations made under this Act.

(2) A reference to a provision of the former Act in a regulation to which subclause (1) applies shall be read as a reference to the corresponding provision of this Act.

5 References to former Act etc

Where the former Act, an instrument made under that Act or any provision of that Act or any such instrument is referred to in any other Act, in any instrument made under any other Act or in any other instrument of any kind, the reference extends to this Act, to any corresponding instrument made under this Act or to any corresponding provision of this Act or of an instrument made under this Act.

6 Regulations

(1) The regulations may contain provisions of a savings or transitional nature consequent

on the enactment of the following Acts:

this Act

Regulatory Reduction Act 1996 , but only in relation to amendments made to this Act or the regulations

(2) A provision made under subclause (1) may take effect as from the commencement of Division 5 of Part 2 or a later day.

(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

(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.

(4) A provision made under subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

Historical notes

Table of Acts Stock (Artificial Breeding) Act 1985 No 196 . Assented to 10.12.1985. Date of commencement, secs 1 and 2 excepted, 1.12.1989, sec 2 (2) and GG No 114 of 24.11.1989, p 9929. This Act has been amended by sec 44 of this Act and as follows:

Law (Miscellaneous Provisions) Act (No 2) 1988 . Assented to 19.12.1988. Date of commencement of Sch 21, 1.12.1989, sec 2 (3) and GG No 114 of 24.11.1989, p 9928.

Law (Miscellaneous Provisions) Act (No 2) 1990 . Assented to 13.12.1990. Date of commencement of the provisions of Sch 1 relating to the *Stock (Artificial Breeding) Act 1985* , 1, Sch 1 and GG No 48 of 22.3.1991, p 2248.

Warrants (Amendment) Act 1991 . Assented to 17.12.1991. Date of commencement, 92, sec 2 and GG No 116 of 18.9.1992, p 6837.

Law (Penalties) Act 1992 . Assented to 8.12.1992. Date of commencement, assent, sec 2.

Regulatory Reduction Act 1996 . Assented to 2.12.1996. Date of commencement of Sch 1.11, 3, sec 2 and GG No 263 of 20.12.2002, p 10750.

Administrative Decisions Legislation Amendment Act 1997 . Assented to 10.7.1997. Date of commencement of Sch 5.27, 1.3.1999, sec 2 and GG No 25 of 26.2.1999, p 969.

Law (Miscellaneous Provisions) Act (No 2) 1999 . Assented to 3.12.1999. Date of commencement of Sch 4, assent, sec 2 (1).

Table of amendments

20 No 108, Sch 1; 1996 No 107, Sch 1.11 [1]-[4].

26 No 107, Sch 1.11 [5].

heading 26 No 107, Sch 1.11 [6].

10 20 No 108, Sch 1.

996 No 107, Sch 1.11 [7].

Div 3

96 No 107, Sch 1.11 [8].

38 No 92, Sch 21 (1); 1990 No 108, Sch 1. Rep 1996 No 107, Sch 1.11 [8].

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96 No 107, Sch 1.11 [8].

90 No 108, Sch 1. Rep 1996 No 107, Sch 1.11 [8].

Div 4

96 No 107, Sch 1.11 [9].

90 No 108, Sch 1. Rep 1996 No 107, Sch 1.11 [9].

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96 No 107, Sch 1.11 [9].

96 No 107, Sch 1.11 [10].

96 No 107, Sch 1.11 [11].

997 No 77, Sch 5.27.

90 No 108, Sch 1.

38 No 92, Sch 21 (2); 1992 No 112, Sch 1.

92 No 112, Sch 1.

90 No 108, Sch 1.

38 No 92, Sch 21 (3); 1990 No 108, Sch 1.

90 No 108, Sch 1; 1996 No 107, Sch 1.11 [12] [13].

90 No 108, Sch 1; 1996 No 107, Sch 1.11 [14] [15].

96 No 107, Sch 1.11 [16].

35 No 196, sec 44 (a); 1991 No 92, Sch 2.

90 No 108, Sch 1.

96 No 107, Sch 1.11 [17].

96 No 107, Sch 1.11 [18].

90 No 108, Sch 1; 1996 No 107, Sch 1.11 [19].

99 No 85, Sch 4.

85 No 196, sec 44 (b).

№ 107, Sch 1.11 [20]-[22].

№ 107, Sch 1.11 [23].