

Stock (Chemical Residues) Regulation 2010

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Stock (Chemical Residues) Act 1975*.

Minister for Primary Industries

Explanatory note

The object of this Regulation is to remake, with minor changes, the *Stock (Chemical Residues) Regulation 2005* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the disposal of seized stock,
- (b) the reporting of test results indicating whether or not stock are chemically affected,
- (c) the powers of inspectors to survey land,
- (d) the use of data,
- (e) the attaching of identifiers to stock that are the subject of a detention notice,
- (f) the delegation of functions of the Minister for Primary Industries,
- (g) the offences under the Act or Regulation for which penalty notices ("on-the-spot" fines) may be issued and the amounts of the fines payable under such notices,
- (h) savings and formal matters.

This Regulation is made under the *Stock (Chemical Residues) Act 1975*, including sections 10 (2), 12C, 13A (2) (b), 15A and 16 (the general regulation-making power).

1 Name of Regulation

This Regulation is the *Stock (Chemical Residues) Regulation 2010*.

2 Commencement

This Regulation commences on 1 September 2010 and is required to be published on the NSW legislation website.

This Regulation replaces the *Stock (Chemical Residues) Regulation 2005* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

- (1) In this Regulation: "**the Act**" means the *Stock (Chemical Residues) Act 1975*.
- (2) Notes included in this Regulation do not form part of this Regulation.

4 Disposal of seized stock

- (1) For the purpose of section 10 (2) of the Act, the prescribed manner for disposing of stock seized under section 10 (1) of the Act is as provided by this clause.
- (2) The stock may be disposed of by returning the stock to:
 - (a) the owner of the stock, or
 - (b) a person nominated by the owner of the stock, or
 - (c) the person who was in charge of the stock when the stock were seized.
- (3) However, the stock may be returned only if:
 - (a) the return of the stock is approved by the Director-General, and
 - (b) payment is made to the Director-General for the costs and expenses incurred in connection with the seizure, keeping and return of the stock, as certified by an

inspector.

(4) Stock that are not returned may be disposed of by way of sale in such manner as the Director-General may direct.

(5) The balance of the proceeds of any sale (less the costs and expenses incurred in connection with the seizure, keeping and sale of the stock, as certified by an inspector) must be paid to such person as the Director-General may direct.

5 Reporting if test indicates stock are chemically affected

(1) For the purpose of section 12C (a) of the Act, the prescribed manner, form and time in which particulars of test results indicating stock are chemically affected must be furnished is as provided by this clause.

(2) The owner of a laboratory or other facility that carried out the tests indicating that the stock are chemically affected must cause a written report to be prepared containing the following particulars in respect of each sample that indicates that stock are chemically affected:

- (a) the date the sample was taken,
- (b) the date the sample was submitted to the laboratory or other facility,
- (c) the name and address of the person who submitted the sample,
- (d) the species of stock from which the sample was taken,
- (e) if known--the name, address and telephone and facsimile numbers of the owner of the stock from which the sample was taken,
- (f) if known--details identifying the property from which the stock came, including the address of the property, the livestock health and pest district under the *Rural Lands Protection Act 1998* in which the property is situated, and the particulars of identification for the stock in accordance with the *Stock Diseases Act 1923*,
- (g) the test method used or an identifying code for that test method,
- (h) a description of the tissue or other material tested,
- (i) any chemical residue identified which causes the stock to be categorised as chemically affected,
- (j) the level of any chemical residue so identified.

(3) The written report must:

- (a) specify the name of the laboratory or other facility that carried out the testing, and
- (b) contain an identifying number allocated in respect of the report by the laboratory or other facility, and
- (c) be signed and dated by the analyst who had responsibility for the contents of the report, and
- (d) be furnished in person (including by courier), or by facsimile or other electronic means, and
- (e) be furnished as soon as possible on the day that the test results indicating that the stock are chemically affected become available (or such later time as the office holder to whom the report is to be furnished may agree to in writing, but not being later than 24 hours after the test results become available).

6 Persons to whom test results must be furnished

(1) For the purpose of section 12C (a) of the Act, the following office holders are prescribed in relation to the furnishing of particulars of test results indicating that stock are chemically affected:

- (a) Manager, Animal Residue Programs, National Residue Survey, Commonwealth Department of Agriculture, Fisheries and Forestry--in relation to a report of a kind notified by the Director-General to the owner of the laboratory or other facility concerned,
- (b) Director-General--in all other cases.

(2) For the purpose of section 12C (b) of the Act, the following office holders are prescribed in relation to the furnishing of particulars of test results indicating that stock are not chemically affected:

- (a) Manager, Animal Residue Programs, National Residue Survey, Commonwealth Department of Agriculture, Fisheries and Forestry,
- (b) Director-General.

7 Power of inspectors

An inspector may conduct a survey or make a plan, map or diagram of the land that is, or may be, subject to a notice under section 7 or 8 of the Act, or of a notification under section 12 of the Act.

8 Persons to whom Minister can delegate functions

For the purposes of section 13A (2) (b) of the Act, the class of persons who are inspectors (not being officers of the Department) are prescribed.

9 Data relating to the identification of stock

Data recorded under a scheme of identification of stock established under the *Stock Diseases Act 1923* may be used for the purposes of the *Stock (Chemical Residues) Act 1975*.

10 Identification of stock

(1) If stock are subject to a detention notice, an inspector may, by order served on the owner or person in charge of the stock, require the person on whom the notice is served to cause a permanent identifier to be attached to the stock concerned, in a manner approved by the Director-General from time to time by order published in the Gazette.

(2) A person on whom an order is served must comply with the order. Maximum penalty: 50 penalty units.

(3) If a person fails or refuses to comply with an order, the inspector may cause a permanent identifier to be attached to the stock concerned.

(4) Any expenses reasonably incurred by an inspector in causing an identifier to be attached to stock (including the purchase of the identifier) may be recovered from the person on whom the order was served.

(5) Without limiting subclause (1), an inspector may attach an identifier (including a permanent identifier) to stock the subject of a detention notice in such manner as the inspector may determine.

(6) A person must not knowingly remove, deface, damage or destroy an identifier attached to stock in accordance with this clause. Maximum penalty: 50 penalty units.

(7) In this clause: "**attached**" includes implanted, inserted, administered or applied. "**identifier**" and "**permanent identifier**" have the same meanings as in Part 3 of the *Stock Diseases Regulation 2009*.

11 Penalty notice offences

For the purposes of section 15A of the Act:

(a) each offence arising under a provision specified in Column 1 of Schedule 1 is prescribed as a penalty notice offence, and

(b) the prescribed penalty for such an offence is:

(i) in the case of a penalty payable by an individual--the amount specified in relation to the offence in Column 2 of Schedule 1, and

(ii) in the case of a penalty payable by a corporation--the amount specified in relation to the offence in Column 3 of Schedule 1.

12 Savings

Any act, matter or thing that, immediately before the repeal of the *Stock (Chemical Residues) Regulation 2005*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Penalty notice offences

(Clause 11)

Column 1	Column 2	Column 3
Provision	Penalty for an individual	Penalty for a corporation
	Offence under the Act	
Section 7 (4)	\$550	\$1,100
Section 7A (3)	\$550	\$1,100
Section 8 (5)	\$1,100	\$2,200
Section 12 (3)	\$550	\$1,100
Section 12B	\$1,100	\$2,200
Section 12C	\$550	\$1,100
Section 12D	\$550	\$1,100
(1)		
Section 12D	\$550	\$1,100
(2)		
	Offence under this Regulation	
Clause 10 (2)	\$550	\$1,100
Clause 10 (6)	\$550	\$1,100

Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
ClI	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Stock (Chemical Residues) Regulation 2010 (415)*. LW 6.8.2010. Date of commencement, 1.9.2010, cl 2.