

South Australia

MEAT HYGIENE ACT 1994

An Act to regulate the processing and sale of meat to ensure its wholesomeness; to repeal the Meat Hygiene Act 1980 and the Poultry Meat Hygiene Act 1986; to make consequential amendments to the Local Government Act 1934 and the Prevention of Cruelty to Animals Act 1985; and for other purposes.

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **1 June 2000**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

(Reprint No. 2)

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being

Meat Hygiene Act 1994 No. 48 of 1994
[Assented to 9 June 1994]¹

as amended by

Meat Hygiene (Definition of Meat and Wholesome) Amendment Act 1995 No. 57 of 1995
[Assented to 3 August 1995]

District Court (Administrative and Disciplinary Division) Amendment Act 2000 No. 4 of 2000 [Assented to 20 April 2000]²

¹ Came into operation 1 December 1994: *Gaz.* 1 December 1994, p. 1868.

² **Schedule 1 (cl. 24) came into operation 1 June 2000: *Gaz.* 18 May 2000, p. 2554.**

NOTE:

ùAsterisks indicate repeal or deletion of text.

ùEntries appearing in bold type indicate the amendments incorporated since the last reprint.

ùFor the legislative history of the Act see Appendix 1.

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The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Meat Hygiene Act 1994*.

Commencement

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

Interpretation

3. In this Act, unless the contrary intention appears-

"**accreditation**" means an accreditation in force under this Act and includes temporary accreditation;

"**Advisory Council**" means the *Meat Hygiene Advisory Council*;

"**approved inspection or audit service**" means a person or body in respect of which an approval as an inspection or audit service is in force under Part 5 Division 1;

"**Commonwealth Minister**" means the Minister of the Commonwealth responsible for the administration of the *Meat Inspection Act 1983* of the Commonwealth;

"**contravene**" includes fail to comply with;

"**marked as fit for human consumption**"-see section 6;

"**meat**" means-

- (a) the whole or part of a killed animal or bird intended for human consumption or consumption by pets; or
- (b) a product intended for human consumption or consumption by pets resulting from a process in which meat is mixed with another substance or is minced, cured, cooked, salted, fermented or otherwise treated (including a product of a class included by regulation within the ambit of this paragraph),

but does not include-

- (c) the whole or a part of a fish; or

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- (d) a product if the proportion of meat in the product measured by mass is less than 30%; or
- (e) the whole or part of an animal or bird, or a product resulting from the processing of meat, of a class excluded by regulation from the ambit of this definition;

"meat hygiene officer" means a person appointed as a meat hygiene officer under Part 5 Division 1 or an employee or agent of the Commonwealth or a local government authority having powers of a meat hygiene officer under an arrangement made under that Division;

"meat processing"-see section 4;

"processing program" means a program to be followed in processing meat including requirements relating to-

- (a) preparations before meat is processed; and
- (b) cleaning up after meat is processed; and
- (c) maintaining premises, vehicles, plant and equipment used in connection with meat processing;

"quality assurance program" means a program to be followed for monitoring compliance with a processing program and the requirements of this Act;

"residue affected animal or bird" has the meaning ascribed to residue affected stock in the *Stock Act 1990*;

"sell" includes-

- (a) sell or give in exchange;
- (b) agree or offer to sell or give in exchange;
- (c) have in possession or control, expose, store, consign or deliver for or on sale or exchange;
- (d) cause or permit an act referred to in paragraph (a), (b) or (c);

"wholesome"-see section 5;

"wild game" means an animal or bird living in a wild state and

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not under any artificial confinement.

Note: For definition of divisional penalties (and divisional expiation fees) see Appendix 2.

Meaning of meat processing

4. For the purposes of this Act, a person will be taken to process meat if the person takes part in any of the following activities:

- (a) killing an animal or bird intended for human consumption or consumption by pets; or
- (b) preparing a killed animal or bird, or part of a killed animal or bird, for human consumption or consumption by pets; or
- (c) producing a product for human consumption or consumption by pets that is within the ambit of the definition of "**meat**"; or
- (d) packing meat intended for human consumption or consumption by pets; or
- (e) storing meat intended for human consumption or consumption by pets; or
- (f) transporting meat intended for human consumption or consumption by pets.

Meaning of wholesome

5. For the purposes of this Act, meat will be taken not to be wholesome if-

- (a) the animal or bird from which it came was not killed in the course of a meat processing operation; or
- (b) the animal or bird from which it came was residue affected; or
- (c) in the case of meat intended for human consumption-
 - (i) the regulations do not allow the holder of an accreditation to process it, or the animal or bird from which it came, for human consumption; or
 - (ii) it is or was contaminated by a prohibited substance or organism within the meaning of the *Food Act 1985*; or

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- (iii) the animal or bird from which it came was suffering from or affected with a disease, parasite, pest or other condition rendering the meat unfit for human consumption; or
 - (iv) it is for any reason unfit for human consumption; or
- (d) in the case of meat intended for consumption by pets-
- (i) the regulations do not allow the holder of an accreditation to process it, or the animal or bird from which it came, for consumption by pets; or
 - (ii) the animal or bird from which it came was suffering from or affected with a disease, parasite, pest or other condition rendering the meat unfit for consumption by pets; or
 - (iii) it is for any reason unfit for consumption by pets.

Meaning of marked as fit for human consumption

6. For the purposes of this Act, meat will be taken to be marked as fit for human consumption, and anything containing meat will be taken to be marked as containing meat fit for human consumption, if it is marked in a manner declared by the Minister, by notice in the *Gazette*, as signifying that the meat is fit for human consumption or that the thing contains meat fit for human consumption.

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PART 2
MEAT HYGIENE ADVISORY COUNCIL

Establishment of Advisory Council

7. The *Meat Hygiene Advisory Council* is established.

Functions of Advisory Council

8. The Advisory Council is to advise the Minister, either on its own initiative or at the request of the Minister, on-

- (a) the operation of this Act; and
- (b) issues directly related to meat hygiene in South Australia.

Composition of Advisory Council

9. (1) The Advisory Council must include the following members appointed by the Minister:

- (a) a person appointed to chair the Council;
- (b) a person appointed to represent the interests of meat processors who operate small slaughtering works supplying meat to the South Australian market;
- (c) a person appointed to represent the interests of meat processors who operate larger slaughtering works supplying meat to the South Australian or Australian market;
- (d) a person appointed to represent the interests of meat processors who operate slaughtering works supplying meat to the overseas market;
- (e) a person appointed to represent the interests of processors of chicken meat;
- (f) a person appointed to represent the interests of processors of meat from wild game;
- (g) a person appointed to represent the interests of processors of pet food;
- (h) a person nominated by the *Meat and Allied Trades Federation (S.A. Division)* to represent the interests of persons engaged in the production of smallgoods or the wholesale or retail sale of meat;
- (i) a person nominated by the *South Australian Farmers Federation Incorporated*;

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- (j) a person nominated by the appropriate registered association of employees to represent the interests of employees in the meat processing industry;
 - (k) an authorised officer appointed by a council under the *Food Act 1985* nominated by the *Local Government Association of South Australia*;
 - (l) a person nominated by the Minister responsible for the administration of the *Food Act 1985*;
 - (m) a person nominated by the Commonwealth Minister;
 - (n) a person nominated by the chief executive officer of the department or administrative unit of the Public Service that has, subject to the Minister, responsibility for administering this Act.
- (2) The Advisory Council may include further members appointed by the Minister to represent other interested persons as the Minister considers appropriate.
- (3) In appointing a member to represent the interests of an industry group the Minister must seek a nomination from that group or representatives of that group.
- (4) The Minister may appoint a person to be a deputy of a member of the Advisory Council and the deputy may act as a member of the Advisory Council in the absence of that member.
- (5) Where a person is appointed as a member of the Advisory Council on the nomination of a body, a person appointed as his or her deputy must also be appointed on the nomination of that body.

Terms and conditions of membership of Advisory Council

10. (1) A member of the Advisory Council is to be appointed for a term (not exceeding three years) specified in the instrument of appointment and is, on the expiration of a term of office, eligible for reappointment.

- (2) The Minister may remove a member from office-
 - (a) in the case of a member appointed on the nomination of a body-at the request of that body; or
 - (b) in the case of a member appointed by reason of holding a particular position in the Public Service-if the member

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ceases to hold that position; or

- (c) for misconduct; or
- (d) for incapacity or failure to carry out satisfactorily duties of the office.

(3) The office of a member of the Advisory Council becomes vacant if the member-

- (a) dies; or
- (b) completes a term of office and is not reappointed; or
- (c) resigns by written notice to the Minister; or
- (d) is removed from office under this section.

(4) On the office of a member becoming vacant, a person may be appointed in accordance with this Part to the vacant office.

Procedures of Advisory Council

11. (1) The Advisory Council may meet at times and places determined by the Council but must meet at least once every six months and at any other time required by the Minister.

(2) A quorum at a meeting of the Advisory Council consists of one-half of the total number of its members (ignoring any fraction resulting from the division) plus one.

(3) The member appointed to chair the Advisory Council will preside at meetings of the Council or, in the absence of that member, a member chosen by those present.

(4) Subject to this Act, the Advisory Council may determine its own procedures.

(5) The Advisory Council must have accurate minutes kept of its proceedings and must provide a copy of the minutes to the Minister.

(6) The Minister must keep a copy of the minutes of the Advisory Council, and of any report made to the Minister by the Advisory Council, available for public inspection during ordinary office hours at an office determined by the Minister.

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PART 3
ACCREDITATION OF MEAT PROCESSORS

Obligation to hold accreditation

12. (1) A person must not process meat except as authorised by an accreditation.

Penalty: Division 4 fine.

(2) This section does not apply to-

- (a) processing consisting of the killing of an animal or bird, or the further processing of an animal or bird, at premises by or on behalf of the owner of the premises where none of the meat from the animal or bird is-
 - (i) sold or intended for sale; or
 - (ii) used, or intended for use, as food for paying guests; or
 - (iii) taken away, or intended to be taken away, from the premises; or
- (b) processing consisting of the killing of wild game, or the further processing of wild game, where none of the meat from the game is-
 - (i) sold or intended for sale; or
 - (ii) used, or intended for use, for business purposes; or
- (c) the further processing of meat that has been processed by the holder of an accreditation (or has been processed in another State or a Territory of the Commonwealth by a person authorised to do so in accordance with the law relating to the processing of meat in force in that place or has been processed outside Australia and lawfully imported into Australia) where-
 - (i) the further processing occurs in the course of the retail sale of meat; or
 - (ii) the further processing occurs in the course of the preparation of food for consumption by customers or guests of the person carrying out the processing; or

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- (iv) the further processing does not constitute or form part of a business and none of the meat is-
 - (A) sold or intended for sale; or
 - (B) used, or intended for use, for business purposes.

Application for accreditation

13. (1) An application for accreditation-

- (a) must be made to the Minister; and
- (b) must conform to the requirements of the Minister about its form, contents and the manner in which it is made; and
- (c) must be accompanied by the fee fixed by regulation.

(2) An application for accreditation must set out details of the applicant's proposed processing program including a description of-

- (a) the classes of meat to be processed; and
- (b) the manner in which the meat is to be processed; and
- (c) the maximum amount of meat to be processed each working day; and
- (d) the premises, vehicles, plant and equipment to be used in or in connection with the meat processing.

(3) An application for accreditation must set out details of any proposed quality assurance program including a description of-

- (a) checks and inspections to be carried out; and
- (b) the qualifications and experience of the person who is to manage the program; and
- (c) the records to be kept of those checks and inspections.

(4) The Minister may, by written notice, ask the applicant-

- (a) to give the Minister further information, documents or records relevant to the application; or
- (b) to allow persons authorised by the Minister to inspect

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premises, vehicles, plant or equipment proposed to be used by the applicant in connection with activities proposed to be authorised by the accreditation.

(5) The Minister may refuse the application if the applicant does not comply with such a request.

(6) The applicant may, with the Minister's approval or at the Minister's request, amend the application before the Minister has finished considering it.

Temporary accreditation

14. (1) The Minister may, pending determination of an application for accreditation, grant temporary accreditation under this section.

(2) Temporary accreditation authorises the holder to process meat on the conditions stated in the accreditation until the earliest of the following happens:

- (a) the period, of not longer than six months, stated in the accreditation ends;
- (b) the application is finally decided by the Minister and the holder notified of the decision;
- (c) the accreditation is revoked at the Minister's discretion by written notice given to the holder.

Grant of accreditation

15. (1) On application for accreditation, the Minister must grant the accreditation sought by the applicant if satisfied-

- (a) that the applicant-
 - (i) has not been convicted of an indictable offence during the five years before the date of the application; and
 - (ii) is a suitable person to hold the accreditation; and
- (b) that the premises, vehicles, plant and equipment proposed to be used in the applicant's proposed processing program-
 - (i) are appropriate for the program; and
 - (ii) meet the requirements of the regulations; and
- (c) that the other aspects of the proposed processing program-

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- (i) are appropriate for the proposed meat processing;
and
 - (ii) meet the requirements of the regulations; and
- (d) if the applicant proposes to have a quality assurance program, that the applicant's proposed quality assurance program-
- (i) is appropriate for ensuring that the wholesomeness of meat processed under the proposed processing program (or that part of the proposed processing program to which the quality assurance program relates) is maintained; and
 - (ii) meets the requirements of the regulations; and
- (e) to the extent that the applicant does not propose to have a quality assurance program in relation to the proposed processing program-that satisfactory arrangements are proposed for inspection services for ensuring that the wholesomeness of meat processed under the proposed processing program is maintained; and
- (f) that the applicant has the capacity, or has made or proposes to make appropriate arrangements, to ensure compliance with the proposed conditions of accreditation.

(2) If the Minister grants the accreditation, the applicant's proposed processing program and quality assurance program (if any) become the applicant's approved processing program and approved quality assurance program for the purposes of this Act.

Conditions of accreditation

- 16.** (1) Accreditation is subject to the following conditions:
- (a) the approved processing program must be complied with in all respects;
 - (b) meat processing of a kind not specified in the approved processing program must not be undertaken;
 - (c) premises, vehicles, plant or equipment not specified in the approved processing program must not be used;
 - (d) premises, vehicles, plant and equipment specified in the approved processing program must not be altered except as allowed by that program or by condition imposed by the

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Minister;

- (e) if the holder of the accreditation has an approved quality assurance program, the holder of the accreditation-
 - (i) must comply with the quality assurance program; and
 - (ii) must allow a person authorised for the purpose by the Minister or an approved inspection or audit service to perform, without notice to the holder-
 - (A) the number of periodic audits of the approved quality assurance program required by condition imposed by the Minister; and
 - (B) if an audit shows a significant failure to follow the approved quality assurance program-such additional audits as the Minister considers appropriate; and
 - (iii) must pay all or a proportion of the costs associated with those audits (and not included as a component of the annual fee paid by the holder under this Part) as required by condition imposed by the Minister;
- (f) if the conditions imposed by the Minister require full-time inspection, the holder of the accreditation-
 - (i) must not cause or permit an animal or bird to be killed except in the presence of a person authorised for the purpose by the Minister or an approved inspection or audit service; and
 - (ii) must not cause or permit meat to be marked as fit for human consumption, or anything containing meat as containing meat fit for human consumption, except at the direction of a person authorised for the purpose by the Minister or an approved inspection or audit service; and
 - (iii) must pay all or a proportion of the costs associated with the engagement of persons to carry out those functions as required by condition imposed by the Minister;
- (g) if the conditions imposed by the Minister require a program of inspection to be carried out, the holder of the accreditation-

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- (i) must allow a person authorised for the purpose by the Minister or an approved inspection or audit service to perform, without notice to the holder-
 - (A) the number of periodic inspections of the holder's business required by condition imposed by the Minister; and
 - (B) if an inspection shows a significant failure to comply with conditions of accreditation or this Act-such additional inspections as the Minister considers appropriate; and
- (ii) must pay all or a proportion of the costs associated with those inspections (and not included as a component of the annual fee paid by the holder under this Part) as required by condition imposed by the Minister;
- (h) the holder of the accreditation must comply with the regulations;
- (i) any other conditions imposed by the Minister which may include-
 - (i) conditions regulating the sale or supply of meat processed by the holder of an accreditation;
 - (ii) conditions requiring the person responsible for the management of a quality assurance program to be approved by the Minister as an approved quality assurance manager;
 - (iii) conditions as to the responsibilities of approved quality assurance managers.

(2) A person who hinders or obstructs a person performing an audit or inspection under a condition of accreditation is guilty of an offence.

Penalty: Division 6 fine.

Annual return and fee

17. (1) The holder of an accreditation must, not later than the date in each year fixed by regulation-

- (a) pay to the Minister the fee fixed by regulation; and

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(b) lodge with the Minister a return that conforms to the requirements of the Minister about its form, contents and the manner in which it is made.

(2) Where the holder of an accreditation fails to pay the annual fee or lodge the annual return in accordance with this section, the Minister may, by written notice, require the holder to make good the default and, in addition, to pay to the Minister the amount fixed by regulation as a penalty for default.

(3) Where the holder of an accreditation fails to comply with the notice within 14 days after the giving of the notice, the accreditation is suspended until the notice is complied with.

(4) Where the holder of an accreditation fails to comply with the notice within six months after the giving of the notice, the accreditation is cancelled.

(5) The Minister must cause written notice of the suspension or cancellation to be given to the holder of the accreditation.

(6) In this section-

"holder of an accreditation" includes the holder of an accreditation whose accreditation has been suspended otherwise than under this section.

Variation of accreditation

18. (1) The Minister may, by written notice to the person holding an accreditation-

- (a) impose a further condition of accreditation; or
- (b) vary or revoke a condition of accreditation previously imposed by the Minister; or
- (c) vary an approved processing or quality assurance program;
or
- (d) revoke an approval of a quality assurance program; or
- (e) revoke an approval of a quality assurance manager.

(2) The Minister must give a copy of a notice revoking an approval of a quality assurance manager to the manager.

(3) The Minister's power under this section may be exercised from

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time to time on the Minister's own initiative or on application by the holder of the accreditation and payment of all relevant fees and charges.

(4) A variation of a condition or approved processing or quality assurance program or the imposition of a new condition will not, except with the agreement of the holder of the accreditation, take effect until six months after the giving of the notice under subsection (1).

(5) The Minister may revoke a condition of accreditation or revoke an approval of a quality assurance program or quality assurance manager at any time.

(6) The holder of an accreditation must, at the request of the Minister and within the period stated by the Minister, return the accreditation to the Minister for the purposes of the endorsement, variation or removal of conditions of the accreditation or for notation of a variation of an approved processing or quality assurance program or revocation of an approval of a quality assurance program.

Penalty: Division 8 fine.
Expiation fee: Division 8 fee.

Application for variation of accreditation

19. (1) An application for variation or revocation of a condition of accreditation or for variation of an approved processing or quality assurance program-

- (a) must be made to the Minister; and
- (b) must conform to the requirements of the Minister about its form, contents and the manner in which it is made; and
- (c) must be accompanied by the fee fixed by regulation.

(2) The Minister may, by written notice, ask the applicant-

- (a) to give the Minister further information, documents or records relevant to the application; or
- (b) to allow persons authorised by the Minister to inspect premises, vehicles, plant or equipment proposed to be used by the applicant in connection with activities proposed to be authorised by the accreditation.

(3) The Minister may refuse the application if the applicant does not comply with such a request.

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(4) The applicant may, with the Minister's approval or at the Minister's request, amend the application before the Minister has finished considering it.

Transfer of accreditation

20. (1) Subject to this section and any condition of the accreditation excluding or limiting the right of transfer under this section, the Minister must approve the transfer of an accreditation on application under this section.

(2) The Minister may refuse to approve the transfer of an accreditation-

- (a) if satisfied that the proposed transferee has been convicted of an indictable offence during the period of five years before the date of the application; or
- (b) if not satisfied that the proposed transferee-
 - (i) is a suitable person to hold the accreditation; or
 - (ii) has the capacity, or has made or proposes to make appropriate arrangements, to ensure compliance with the conditions of accreditation.

(3) An application for transfer of accreditation-

- (a) must be made to the Minister; and
- (b) must conform to the requirements of the Minister about its form, contents and the manner in which it is made; and
- (c) must be accompanied by the fee fixed by regulation.

(4) The Minister may, by written notice, ask the applicant to give the Minister further information, documents or records relevant to the application and may refuse the application if the applicant does not comply with such a request.

Suspension or revocation of accreditation

21. (1) The Minister may suspend or revoke an accreditation if satisfied that-

- (a) the accreditation was obtained improperly; or
- (b) the holder of the accreditation has ceased to undertake the activity authorised by the accreditation; or

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- (c) the holder of the accreditation has not paid fees or charges payable to the Minister or an approved inspection or audit service; or
- (d) the holder has contravened a condition of the accreditation; or
- (e) the holder has committed an offence against this Act; or
- (f) the holder has been convicted of an indictable offence.

(2) A suspension under this section may be for a specified period, or until the fulfilment of specified conditions, or until further order of the Minister.

(3) Before the Minister acts under this section, the Minister must-

- (a) give written notice to the holder of the accreditation of the proposed action specifying the reasons for the proposed action; and
- (b) allow the holder of the accreditation at least 14 days within which to make submissions to the Minister in relation to the proposed action.

(4) If the Minister suspends or revokes an accreditation, the holder or former holder of the accreditation must return the accreditation to the Minister within 14 days.

Penalty: Division 8 fine.
Expiation fee: Division 8 fee.

Surrender of accreditation

22. An accreditation may be surrendered to the Minister.

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PART 4
SALE AND MARKING OF MEAT

Sale of meat for human consumption

23. (1) A person must not sell meat for human consumption unless-

- (a) it was processed by the holder of an accreditation or a person exempt from the requirement to hold an accreditation in relation to processing the meat; or
- (b) it was processed in another State or a Territory of the Commonwealth by a person authorised to do so in accordance with the law relating to the processing of meat for human consumption in force in that place; or
- (c) it was processed outside Australia and was lawfully imported into Australia.

Penalty: Division 4 fine.

(2) A person must not sell meat for human consumption unless it is wholesome.

Penalty: Division 4 fine.

Marking of meat for human consumption

24. (1) A person must not mark meat as fit for human consumption except in accordance with an accreditation or the regulations.

Penalty: Division 4 fine.

(2) A person must not mark anything containing meat as containing meat fit for human consumption except in accordance with an accreditation or the regulations.

Penalty: Division 4 fine.

Sale of meat for consumption by pets

25. (1) A person must not sell meat for consumption by pets unless-

- (a) it was processed by the holder of an accreditation or a person exempt from the requirement to hold an accreditation in relation to processing the meat; or
- (b) it was processed in another State or a Territory of the Commonwealth by a person authorised to do so in accordance with the law relating to the processing of meat for

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consumption by pets in force in that place; or

- (c) it was processed outside Australia and was lawfully imported into Australia.

Penalty: Division 5 fine.

- (2) A person must not sell meat for consumption by pets unless it is wholesome.

Penalty: Division 5 fine.

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PART 5
ENFORCEMENT

DIVISION 1-INSPECTION AND AUDIT

Approved inspection or audit services

26. (1) The Minister may approve a person or body to be an approved inspection or audit service for the purposes of this Act if-

- (a) the Minister is satisfied that the person or body, or its agents or contractors, can provide a satisfactory and efficient inspection or audit service for the purposes of this Act and that the service will be provided by suitably qualified persons; and
- (b) the person or body has entered into an agreement with the Minister under this section.

(2) An approval under this section may be subject to such conditions as the Minister thinks fit, including conditions-

- (a) limiting the functions or powers of the person or body; or
- (b) limiting the area of the State in which those functions or powers may be exercised; or
- (c) fixing fees to be paid by the service to the Minister.

(3) An agreement under this section-

- (a) must regulate the provision of inspection or audit services for the purposes of this Act; and
- (b) must provide that the agreement terminates if the Minister withdraws approval of the service; and
- (c) may regulate the charges to be made by the service for inspection or audit services under this Act (by fixing specific charges or maximum and minimum charges or by setting out a method of calculating charges); and
- (d) may regulate the withdrawal of inspection or audit services for non-payment of charges; and
- (e) may contain any other provision agreed between the Minister and the person or body.

(4) The Minister and an approved inspection or audit service may,

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by agreement, vary or terminate an agreement under this section.

(5) The Minister may, by written notice to the holder of an approval under this section-

- (a) impose a further condition of approval; or
- (b) vary or revoke a condition of approval; or
- (c) withdraw the approval if satisfied that the holder is in breach of a condition of the approval or a term of the agreement between the holder and the Minister under this section.

(6) An approval or an agreement under this section does not derogate from the right of a meat hygiene officer to exercise any power under this Act.

Appointment of meat hygiene officers

27. (1) The Minister may appoint suitable persons to be meat hygiene officers for the purposes of this Act.

(2) An appointment may be made subject to conditions specified in the instrument of appointment.

(3) The Minister may make an arrangement with the Commonwealth Minister or a local government authority with respect to the exercise and discharge by an employee or agent of the Commonwealth or local government authority of the powers and functions of a meat hygiene officer.

(4) The Minister may, at any time, revoke an appointment of a meat hygiene officer or vary or revoke a condition of appointment or impose a further condition of appointment.

Identification of meat hygiene officers

28. (1) A meat hygiene officer appointed under this Act must be issued with an identity card-

- (a) containing the person's name and a photograph of the person; and
- (b) stating that the person is a meat hygiene officer under this Act.

(2) Where the powers of a meat hygiene officer have been limited by conditions, the identity card issued to the officer must contain a statement of those conditions.

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(3) A meat hygiene officer must, at the request of a person in relation to whom the officer intends to exercise powers under this Act, produce for the inspection of the person his or her identity card (or in the case of an employee or agent of the Commonwealth or a local government authority exercising the powers of a meat hygiene officer, some other form of identification and authority).

General powers of meat hygiene officers

29. (1) A meat hygiene officer may for the purposes of the administration or enforcement of this Act-

- (a) enter and inspect any place or vehicle to which this section applies;
- (b) where reasonably necessary, use reasonable force to break into or open any part of, or anything in or on, any place or vehicle to which this section applies;
- (c) give directions with respect to the stopping or movement of a vehicle to which this section applies;
- (d) take samples of or from any animal, bird, meat, substance or thing for analysis;
- (e) mark, or direct the marking of, meat or animals or birds apparently intended to be killed for meat or anything used, or apparently intended to be used, in connection with such meat, animals or birds;
- (f) seize and retain any meat, or issue a seizure order in respect of any meat, in order to prevent the meat being processed before its wholesomeness can be determined or if the officer reasonably suspects that the meat may not be wholesome;
- (g) seize and retain, or issue a seizure order in respect of, an animal or bird apparently intended to be killed for meat-
 - (i) in order to prevent the animal or bird being killed before it can be determined whether it is residue affected or suffering from or affected with a disease, parasite, pest or other condition that would render meat derived from the animal or bird unwholesome; or
 - (ii) if the officer reasonably suspects that the animal or bird is residue affected or suffering from or

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affected with a disease, parasite, pest or other condition that would render meat derived from the animal or bird unwholesome;

- (h) require any person to produce any documents, including a written record that reproduces in an understandable form information stored by computer, microfilm or other process;
- (i) examine, copy or take extracts from any documents or information so produced or require a person to provide a copy of any such document or information;
- (j) take photographs, films or audio, video or other recordings;
- (k) examine or test any plant, equipment, vehicle or other thing, or cause or require it to be so examined or tested, or seize it or require its production for such examination or testing;
- (l) seize and retain, or issue a seizure order in respect of, anything that the officer reasonably suspects has been used in, or may constitute evidence of, a contravention of this Act;
- (m) require a person who the officer reasonably suspects has committed, is committing or is about to commit, a contravention of this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity;
- (n) require a person who the officer reasonably suspects has knowledge of matters in respect of which information is reasonably required for the administration or enforcement of this Act to answer questions in relation to those matters;
- (o) require a person holding or required to hold an accreditation to produce it for inspection;
- (p) give any directions reasonably required in connection with the exercise of a power conferred by any of the paragraphs above or otherwise in connection with the administration or enforcement of this Act.

(2) A meat hygiene officer may not exercise the power conferred by subsection (1) (b) in relation to any residential premises except on the authority of a warrant issued by a justice.

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(3) A justice must not issue a warrant under subsection (2) unless satisfied, by information given on oath, that the warrant is reasonably required in the circumstances.

(4) In the exercise of powers under this Act a meat hygiene officer may be assisted by such persons as the officer considers necessary in the circumstances.

(5) A meat hygiene officer may require an occupier of any place or a person apparently in charge of any plant, equipment, vehicle or other thing to give to the officer or a person assisting the officer such assistance as is reasonably required by the officer for the effective exercise of powers conferred by this Act.

(6) Where a person gives assistance to a meat hygiene officer as required under subsection (5), the person must, if he or she so requires, be reimbursed by the officer or the Minister for any reasonable costs and expenses incurred in giving the assistance.

(7) This section applies to a place or vehicle-

- (a) that a meat hygiene officer reasonably suspects is being, or has been, used for or in connection with meat processing or the sale of meat; or
- (b) in which the officer reasonably suspects there may be records relating to meat processing or the sale of meat or anything that has been used in, or may constitute evidence of, a contravention of this Act.

Provisions relating to seizure

30. (1) A seizure order under this Division-

- (a) must be in the form of a written notice given to the owner or person in control of the thing to which the order relates; and
- (b) may be varied or discharged by further such written notice.

(2) Where a seizure order is issued under this Division, a person who removes or interferes with the thing to which the order relates without the approval of a meat hygiene officer before the thing is dealt with under this section or the seizure order discharged is guilty of an offence.

Penalty: Division 6 fine.

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(3) Where meat has been seized under this Division or a seizure order issued in respect of meat under this Division, the following provisions apply:

- (a) if a meat hygiene officer is satisfied that the meat is wholesome-it must be released immediately;
- (b) if a meat hygiene officer is satisfied that the meat is not wholesome-the meat hygiene officer may-
 - (i) direct that the meat be processed in a specified manner to ensure that it becomes wholesome; or
 - (ii) direct that the meat only be used for specified limited purposes; or
 - (iii) condemn the meat and dispose of it as the officer thinks fit or direct its disposal in a specified manner.

(4) Before exercising a power under subsection (3) (b), the meat hygiene officer must make a reasonable attempt to give the owner of the meat an opportunity to comment on the proposed exercise of the power.

(5) If an animal or bird has been seized, or a seizure order issued in respect of an animal or bird, under this Division, the following provisions apply:

- (a) if a meat hygiene officer is satisfied that the animal or bird is not residue affected and is not suffering from or affected with a disease, parasite, pest or other condition that would render meat derived from it unwholesome-it must be released immediately;
- (b) if a meat hygiene officer is satisfied that the animal or bird is residue affected or is suffering from or affected with a disease, parasite, pest or other condition that would render meat derived from it unwholesome-the meat hygiene officer may dispose of it as the officer thinks fit or direct its disposal in a specified manner.

(6) Where a thing (other than meat or an animal or bird) has been seized under this Division, the following provisions apply:

- (a) the thing must, if it has been seized, be held pending proceedings for an offence against this Act related to the thing seized, unless the Minister, on application,

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authorises its release to the person from whom it was seized, or to any person who had legal title to it at the time of its seizure, subject to such conditions as the Minister thinks fit (including conditions as to the giving of security for satisfaction of an order under paragraph (b) (ii));

(b) where proceedings for an offence against this Act relating to the thing are instituted within the prescribed period after its seizure or the issuing of the seizure order and the defendant is convicted or found guilty of the offence, the court may-

(i) order that it be forfeited to the Minister; or

(ii) where it has been released pursuant to paragraph (a) or is the subject of a seizure order-order that it be forfeited to the Minister or that the person to whom it was released or the defendant pay to the Minister an amount equal to its market value at the time of its seizure as the court thinks fit;

(c) where-

(i) proceedings are not instituted for an offence against this Act relating to the thing within the prescribed period after its seizure or the issuing of the seizure order; or

(ii) proceedings have been so instituted and-

(A) the defendant is found not guilty of the offence; or

(B) the defendant is convicted or found guilty of the offence but no order for forfeiture is made under paragraph (b),

then-

(iii) in the case of a thing seized-the person from whom the thing was seized, or any person with legal title to it, is entitled to recover from the Minister (if necessary, by action in a court of competent jurisdiction) the thing itself, or if it has been damaged or destroyed, compensation of an amount equal to its market value at the time of its seizure; or

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- (iv) in the case of a thing subject to a seizure order—the order is discharged.

(7) In this section—

"the prescribed period" means six months or such longer period as a magistrate may, on application by the Minister, allow.

Offence to hinder, etc., meat hygiene officers

31. (1) A person who—

- (a) hinders or obstructs a meat hygiene officer, or a person assisting a meat hygiene officer, in the exercise of powers conferred by this Act; or
- (b) uses abusive, threatening or insulting language to a meat hygiene officer, or a person assisting a meat hygiene officer; or
- (c) refuses or fails to comply with a requirement or direction of a meat hygiene officer under this Division; or
- (d) when required by a meat hygiene officer under this Division to answer a question, refuses or fails to answer the question to the best of the person's knowledge, information and belief; or
- (e) falsely represents, by words or conduct, that he or she is a meat hygiene officer,

is guilty of an offence.

Penalty: Division 6 fine.

(2) A person who assaults a meat hygiene officer, or a person assisting a meat hygiene officer in the exercise of powers under this Act, is guilty of an offence.

Penalty: Division 5 fine or division 5 imprisonment, or both.

Offences by meat hygiene officers, etc.

32. A meat hygiene officer, or a person assisting a meat hygiene officer, who—

- (a) addresses offensive language to any other person; or
- (b) without lawful authority, hinders or obstructs or uses or threatens to use force in relation to any other person,

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is guilty of an offence.

Penalty: Division 6 fine.

DIVISION 2-COMPLIANCE ORDERS

Power to require compliance with conditions of accreditation

33. (1) If a meat hygiene officer reasonably suspects that the holder of an accreditation has contravened or is contravening conditions of the accreditation, the officer may, by written notice to the holder-

- (a) require specified action to be taken within a specified time to rectify the contravention; or
- (b) require specified action to be taken within a specified time to ensure compliance with the conditions; or
- (c) prohibit the use of specified premises, vehicles, plant or equipment for or in connection with meat processing until the conditions are complied with.

(2) A meat hygiene officer may vary a requirement or prohibition imposed under this section by further written notice to the holder of the accreditation.

Offence of contravening compliance order

34. If a requirement or prohibition imposed by notice under this Division is contravened, the holder of the accreditation to whom the notice was given is guilty of an offence.

Penalty: Division 4 fine.

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PART 6
APPEALS

Appeal to District Court

35. (1) An appeal to the Administrative and Disciplinary Division of the District Court (**the Court**) may be made-

- (a) by a person whose application for accreditation has been refused; or
- (b) by a person who holds an accreditation and is aggrieved by a decision of the Minister with respect to-
 - (i) the conditions of accreditation imposed by the Minister; or
 - (ii) a variation or a refusal to vary those conditions; or
 - (iii) a variation or a refusal to vary an approved processing or quality assurance program; or
 - (iv) the revocation of an approval of a quality assurance program; or
 - (v) the revocation of an approval of a quality assurance manager; or
- (c) by a person who holds, or has held, an accreditation and is aggrieved by a decision of the Minister to suspend or revoke that accreditation; or
- (d) by a person who holds an accreditation and is aggrieved by the decision of a meat hygiene officer to impose a requirement or prohibition under Part 5 Division 2; or
- (e) by a person who has held an approval as a quality assurance manager and is aggrieved by a decision of the Minister to revoke that approval.

(2) A right of appeal does not lie in relation to a temporary accreditation.

* * * * *

(4) Subject to subsection (6), an appeal must be instituted within one month of the making of the decision appealed against.

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PART 6

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(5) The Minister must, if so required by a person affected by a decision made by the Minister, state in writing the reasons for the decision.

(6) If the reasons of the Minister are not given in writing at the time of making a decision and the person affected by the decision (within one month of the making of the decision) requires the Minister to state the reasons in writing, the time for instituting an appeal runs from the time at which the person receives the written statement of those reasons.

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PART 7
MISCELLANEOUS

Exemptions

36. (1) The Minister may, by notice published in the *Gazette*, exempt any specified person, or specified class of persons, from compliance with this Act or specified provisions of this Act.

(2) An exemption is subject to any conditions stated in the notice.

(3) An exemption may be varied or revoked by further notice in the *Gazette*.

(4) A person who has been exempted from compliance with this Act or specified provisions of this Act must not contravene a condition of the exemption.

Penalty: Division 4 fine.

Delegation

37. (1) The Minister may, by instrument in writing, delegate to a specified person employed in the Public Service, or the person for the time being holding a specified position in the Public Service, any power or function of the Minister under this Act.

(2) A delegation under this section is subject to any conditions specified in the instrument of delegation.

(3) A delegation under this section is revocable at will and does not prevent the Minister from acting in any matter.

Immunity from personal liability

38. (1) No personal liability attaches to a meat hygiene officer or any other person engaged in the administration of this Act for an honest act or omission in the exercise or discharge, or purported exercise or discharge, of a power or function under this Act.

(2) A liability that would, but for subsection (1), lie against a person lies instead against the Crown.

False or misleading statements

39. A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided, or record kept, under this Act.

Penalty: (a) if the person made the statement knowing that

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it was false or misleading-division 5 fine or
division 5 imprisonment;

(b) in any other case-division 6 fine.

Statutory declaration

40. Where a person is required by or under this Act to provide information to the Minister, the Minister may require that the information be verified by statutory declaration and, in that event, the person will not be taken to have provided the information as required unless it has been verified in accordance with the requirements of the Minister.

Confidentiality

41. A person must not divulge any information relating to trade processes or financial information obtained (whether by that person or some other person) in the administration or enforcement of this Act except-

- (a) as authorised by or under this Act; or
- (b) with the consent of the person from whom the information was obtained or to whom the information relates; or
- (c) as reasonably required in connection with the administration or enforcement of this Act; or
- (d) for the purpose of any legal proceedings arising out of the administration or enforcement of this Act.

Penalty: Division 5 fine.

Giving of notice

42. (1) A notice required or authorised by this Act to be given to a person by the Minister or a meat hygiene officer may be given-

- (a) by delivering it personally to the person or an agent of the person; or
- (b) by leaving it for the person at the person's place of residence or business with someone apparently over the age of 16 years; or
- (c) by posting it to the person or agent of the person at the person's or agent's last known place of residence or business.

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(2) Without limiting the effect of subsection (1), a notice required or authorised to be given to an applicant under this Act or to the holder of an accreditation or approval under this Act may be given-

- (a) in the case of a natural person-
 - (i) by posting it to the person at the address last provided to the Minister by the person for that purpose; or
 - (ii) by transmitting it to the person by facsimile transmission to the number last provided to the Minister by the person for that purpose;
- (b) in the case of a company-in accordance with section 220 of the *Corporations Law*.

Evidence

43. (1) In any proceedings, a certificate executed by the Minister certifying as to a matter relating to-

- (a) an accreditation under this Act; or
- (b) an approval or agreement under this Act; or
- (c) the appointment of a meat hygiene officer under this Act; or
- (d) an arrangement with the Commonwealth or a local government authority under this Act; or
- (e) a delegation under this Act; or
- (f) a notice given by the Minister under this Act; or
- (g) an application made under this Act; or
- (h) the receipt or non-receipt by the Minister of information required to be given to the Minister under this Act,

constitutes proof, in the absence of proof to the contrary, of the matters so certified.

- (2) An allegation in a complaint-
 - (a) that specified matter was meat; or

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- (b) that specified meat was intended for human consumption; or
- (c) that specified meat was intended for consumption by pets;
or
- (d) that the sale of specified meat was for human consumption;
or
- (e) that the sale of specified meat was for consumption by pets,

constitutes proof, in the absence of proof to the contrary, of the matters so alleged.

(3) In any proceedings, proof that specified meat was on any premises used by a person for or in connection with the business of selling meat, or on any adjacent premises occupied by that person or any member of his or her family, will, in the absence of proof to the contrary, be accepted as proof that the meat was being offered, exposed or stored for sale by that person.

(4) In any proceedings, evidence by a meat hygiene officer that, in his or her opinion, specified meat was not wholesome will be taken to be conclusive evidence of that matter.

General defence

44. (1) It is a defence to a charge of an offence against this Act if the defendant proves that the offence did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

(2) A person who intends to rely on a defence under this section may only do so if the person gives written notice of that intention to the Minister within 28 days after the summons to answer to the charge is served on the person.

Offences by bodies corporate

45. Where a body corporate is guilty of an offence against this Act, each member of the governing body and the manager of the body corporate are guilty of an offence and liable to the same penalty as may be imposed for the principal offence.

Continuing offences

46. (1) Where an offence against this Act is committed by a person by reason of a continuing act or omission-

- (a) the person is liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continues of not more than an

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amount equal to one-fifth of the maximum penalty prescribed for that offence; and

- (b) if the act or omission continues after the person is convicted of the offence, the person is guilty of a further offence against that provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or omission continues after that conviction of not more than an amount equal to one-fifth of the maximum penalty prescribed for that offence.

(2) For the purposes of this section, an obligation to do something is to be regarded as continuing until the act is done despite the fact that any period within which, or time before which, the act is required to be done has expired or passed.

Regulations

47. (1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may-

- (a) impose standards in relation to meat processing or the sale of meat or premises, vehicles, plant or equipment used in connection with meat processing or the sale of meat;
- (b) regulate the records to be kept by the holder of an accreditation or require the holder to report information to the Minister;
- (c) regulate approved processing programs or quality assurance programs including matters to be included in programs, the format of programs or the qualifications and experience of persons who manage quality assurance programs;
- (d) regulate or prohibit the marking of animals or birds intended to be killed for meat, meat or anything used in connection with such animals, birds or meat;
- (e) regulate the way in which meat may be processed, including the blending or mixing of meat with other substances;
- (f) fix fees to be paid in respect of any matter under this Act and regulate the payment, recovery, waiver or reduction of such fees;

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- (g) exempt (conditionally or unconditionally) classes of persons or activities from the application of this Act or specified provisions of this Act;
 - (h) impose a penalty (not exceeding a division 6 fine) for contravention of a regulation.
- (3) Regulations under this Act-
- (a) may be of general application or limited application;
 - (b) may make different provision according to the matters or circumstances to which they are expressed to apply;
 - (c) may provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister.
- (4) A regulation under this Act may provide for fees payable by the holder of, or an applicant for accreditation-
- (a) that are to be determined by reference to-
 - (i) factors related to the processing program or proposed processing program of the holder or applicant; or
 - (ii) whether or not the holder or applicant has or proposes to have a quality assurance program, full-time inspection or a program of inspection; or
 - (iii) other factors; or
 - (b) that incorporate a component for all or a specified proportion of the costs associated with any inspection that is in the opinion of the Minister necessary to be carried out.
- (5) The regulations may incorporate or operate by reference to a specified code or standard as in force at a specified time or as in force from time to time.
- (6) If a code or standard is referred to or incorporated in the regulations-
- (a) a copy of the code or standard must be kept available for inspection by members of the public, without charge and

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during normal office hours, at an office determined by the Minister; and

- (b) evidence of the contents of the code or standard may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code or standard.

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SCHEDULE 1

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SCHEDULE 1
Repeal and Transitional Provisions

Repeals

1. The following Acts are repealed:

Meat Hygiene Act 1980
Poultry Meat Hygiene Act 1986.

Transitional provisions

2. (1) A person who held a licence under the *Meat Hygiene Act 1980* or the *Poultry Meat Hygiene Act 1986* immediately before the commencement of this Act and who is required to hold an accreditation under this Act will be granted temporary accreditation by the Minister under this clause on the commencement of this Act.

(2) Temporary accreditation under this clause authorises the holder to process meat subject to the conditions stated in the accreditation until the earliest of the following happens:

- (a) the period of three months ends and no application for accreditation has been received by the Minister;
- (b) an application for accreditation is received and is finally decided by the Minister and the holder notified of the decision;
- (c) the accreditation is revoked under section 21.

(3) Section 35(2) does not prevent an appeal under that section by a person who holds, or has held, temporary accreditation under this clause.

(4) The fee payable on an application for accreditation will be reduced, in the case of an applicant who held a licence under the *Meat Hygiene Act 1980* or the *Poultry Meat Hygiene Act 1986* immediately before the commencement of this Act, by the proportion of the fee paid for that former licence attributable to the unexpired portion of the licence period (rounded to the nearest dollar).

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SCHEDULE 2
Consequential Amendments

Amendment of Local Government Act 1934

1. Section 667 of the *Local Government Act 1934* is amended by striking out from clause 4(IX) the words in brackets and substituting "(other than at premises being used by the holder of an accreditation under the *Meat Hygiene Act 1994* for or in connection with meat processing within the meaning of that Act)".

Amendment of Prevention of Cruelty to Animals Act 1985

2. Section 29 of the *Prevention of Cruelty to Animals Act 1985* is amended by striking out paragraph (a) of subsection (1) and substituting the following paragraph:

- (a) at any reasonable time, enter any premises that are-
- (i) licensed under this Act; or
 - (ii) being used by the holder of a licence under this Act for the purposes of an activity for which the holder is required to be licensed under this Act; or
 - (iii) being used by the holder of an accreditation under the *Meat Hygiene Act 1994* for or in connection with meat processing within the meaning of that Act;.

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APPENDIX 1

LEGISLATIVE HISTORY

(entries in bold type indicate amendments incorporated since the last reprint)

| | |
|------------------------|---|
| Section 3: | definition of "diseased animal or bird" repealed by 57, 1995, s. 2(a) definition of "meat" substituted by 57, 1995, s. 2(b) |
| Sections 4 and 5: | substituted by 57, 1995, s. 3 |
| Section 12(2)(c)(iii): | repealed by 57, 1995, s. 4 |
| Section 29(1): | amended by 57, 1995, s. 5 |
| Section 30(5): | substituted by 57, 1995, s. 6 |
| Section 35(1): | amended by 4, 2000, s. 9(1) (Sched. 1 cl. 24(a)) |
| Section 35(3): | repealed by 4, 2000, s. 9(1) (Sched. 1 cl. 24(b)) |
| Section 35(4): | amended by 4, 2000, s. 9(1) (Sched. 1 cl. 24(c)) |
| Section 35(7): | repealed by 4, 2000, s. 9(1) (Sched. 1 cl. 24(d)) |
| Section 35(8): | repealed by 4, 2000, s. 9(1) (Sched. 1 cl. 24(e)) |
| Section 35(9): | repealed by 4, 2000, s. 9(1) (Sched. 1 cl. 24(f)) |
| Section 35(10): | repealed by 4, 2000, s. 9(1) (Sched. 1 cl. 24(g)) |

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APPENDIX 2

DIVISIONAL PENALTIES AND EXPIATION FEES

At the date of publication of this reprint divisional penalties and expiation fees are, as provided by section 28A of the *Acts Interpretation Act 1915*, as follows:

| Division | Maximum imprisonment | Maximum fine | Expiation fee |
|----------|----------------------|--------------|---------------|
| 1 | 15 years | \$60 000 | - |
| 2 | 10 years | \$40 000 | - |
| 3 | 7 years | \$30 000 | - |
| 4 | 4 years | \$15 000 | - |
| 5 | 2 years | \$8 000 | - |
| 6 | 1 year | \$4 000 | \$300 |
| 7 | 6 months | \$2 000 | \$200 |
| 8 | 3 months | \$1 000 | \$150 |
| 9 | - | \$500 | \$100 |
| 10 | - | \$200 | \$75 |
| 11 | - | \$100 | \$50 |
| 12 | - | \$50 | \$25 |

Note: This appendix is provided for convenience of reference only.