

Authorised Version No. 005
Livestock Management Act 2010

No. 15 of 2010

Authorised Version incorporating amendments as at
1 July 2014

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The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purpose

The purpose of this Act is to regulate livestock management in Victoria.

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day to be proclaimed.
- (2) If this Act does not come into operation before 1 January 2011, it comes into operation on that day.

3 Definitions

In this Act—

accredited livestock operator means a livestock operator that has been accredited by a controlling authority to carry out livestock management under an approved compliance arrangement;

approved compliance arrangement means a compliance arrangement in respect of which—

- (a) the Minister has granted an approval under section 11; and
- (b) the Minister has sent a letter of approval under section 15; and

- (c) the terms of the letter of approval have been accepted by the controlling authority under section 15(3);

compliance arrangement means—

- (a) a quality assurance program; or
(b) an inspection and certification arrangement;

controlling authority means a person or statutory body that is responsible for a compliance arrangement;

Department means the Department of Environment and Primary Industries;

S. 3 def. of *Department* amended by No. 70/2013 s. 4(Sch. 2 item 27).

emergency, in relation to livestock management, means an event or situation that threatens animal welfare, human health or biosecurity;

inspection and certification arrangement means an arrangement that—

- (a) provides for inspection and certification; and
(b) is prescribed, or of a class prescribed, or meets the criteria prescribed, by the regulations for the purposes of this Act;

inspector means—

- (a) a person appointed as an inspector under section 27; or
(b) an inspector of livestock within the meaning of the **Livestock Disease Control Act 1994**;

livestock means—

- (a) any animal kept for the purposes of primary production, including cattle, sheep, pigs, poultry, ratites, buffalo, camels, alpacas, goats and deer; or
- (b) horses, including where used for recreation; or
- (c) any animals prescribed as livestock;

livestock management activity means any activity that relates to the health, husbandry or biosecurity of livestock during any stage of the livestock's life, from birth to slaughter, including the transport and holding of livestock;

livestock management standard means—

- (a) a standard published under section 9; or
- (b) any other published standard relating to the management of livestock;

livestock operator means—

- (a) a person operating a business that engages in a regulated livestock management activity; or
- (b) a person in charge of livestock;

notice of suspension means a notice issued under section 21 or section 49;

notice to comply means a notice issued under section 46;

officer—

- (a) in relation to a body corporate which is a corporation within the meaning of the Corporations Act, has the same meaning as officer of a corporation has in section 9 of that Act; and

- (b) in relation to a body corporate which is not a corporation within the meaning of that Act, means any person (by whatever name called) who is concerned in or takes part in the management of the body corporate or is an employee of the body corporate;

person includes a partnership and an unincorporated body;

person in charge, in relation to livestock, means—

- (a) a person who has the livestock in the person's possession or custody or under the person's care, control or supervision; or
- (b) if a person referred to in paragraph (a) is required to comply with a direction of an owner of livestock, or an employee or agent of the owner, the owner, employee or agent;

place includes premises or a vehicle;

police officer has the same meaning as in the **Victoria Police Act 2013**;

prescribed livestock management standard means a livestock management standard prescribed by the regulations;

regulated livestock management activity means any livestock management activity to which a prescribed livestock management standard relates;

Secretary means the Secretary to the Department;

S. 3 def. of *police officer* inserted by No. 37/2014 s. 10(Sch. item 98.1).

systematic risk assessment means a risk assessment conducted under section 7.

4 Application

- (1) Subject to this section, nothing in this Act affects the operation of the following Acts, or anything done or required to be done under those Acts—
 - (a) the **Food Act 1984**;
 - (b) the **Prevention of Cruelty to Animals Act 1986**;
 - (c) the **Meat Industry Act 1993**;
 - (d) the **Impounding of Livestock Act 1994**;
 - (e) the **Livestock Disease Control Act 1994**;
 - (f) the **Catchment and Land Protection Act 1994**;
 - (g) the **Fisheries Act 1995**;
 - (h) the **Dairy Act 2000**—
(the *listed Acts*).
- (2) Where there is a conflict between the requirements of a prescribed livestock management standard and any requirement, prescribed standard or applicable code under a listed Act, compliance with the requirement, prescribed standard or applicable code will be taken to be compliance with the prescribed livestock management standard.
- (3) For the purposes of the **Prevention of Cruelty to Animals Act 1986**, it is a defence to an offence under that Act if the person was carrying out a regulated livestock management activity and

acting in compliance with a prescribed livestock management standard.

5 Binding of Crown

This Act binds the Crown in right of the State of Victoria and, to the extent that the legislative power of Parliament permits, the Crown in all its other capacities.

**PART 2—DUTIES CONCERNING LIVESTOCK
MANAGEMENT**

6 Livestock operators must comply with prescribed livestock management standards

A livestock operator must comply with all applicable prescribed livestock management standards when engaging in a regulated livestock management activity.

7 Livestock operator must carry out systematic risk assessment

- (1) A livestock operator who carries out a regulated livestock management activity must carry out a systematic risk assessment of the livestock management activity.
- (2) The systematic risk assessment must be carried out by the livestock operator within 6 months after the later of the following to occur—
 - (a) the prescribed livestock management standard that applies to the regulated livestock management activity is prescribed; or
 - (b) the livestock operator commences to carry out the regulated livestock management activity.

8 Content of systematic risk assessment

A systematic risk assessment of a regulated livestock management activity must contain the following—

- (a) an assessment of the likely risks to animal welfare and biosecurity arising from the regulated livestock management activity; and

(b) details of control measures to ensure that—

- (i) the prescribed livestock management standard is and will be complied with; and
- (ii) the risks identified under paragraph (a) are minimised.

9 Minister may declare intention to prescribe standard

- (1) The Minister may declare, by notice published in the Government Gazette, an intention to prescribe a livestock management standard.
- (2) If the Minister publishes notice of a declaration under subsection (1), the notice must contain a copy of the livestock management standard that is the subject of the declaration.

PART 3—COMPLIANCE ARRANGEMENTS

10 Exemption for approved compliance arrangements

Subject to this Act, a livestock operator who carries out a regulated livestock management activity under an approved compliance arrangement is not required to comply with—

- (a) section 7 or 8; or
- (b) any provision under the regulations that creates an offence for failing to comply with a prescribed livestock management standard.

11 Approval of compliance arrangement

- (1) The Minister, on the Minister's own initiative or on the application of a controlling authority, may approve a compliance arrangement in respect of a regulated livestock management activity.
- (2) Notice of an approval under subsection (1) must be published in the Government Gazette.

12 Application to approve compliance arrangement

- (1) A controlling authority may apply to the Minister for approval of a compliance arrangement in respect of a regulated livestock management activity.
- (2) An application under subsection (1) must be in the approved form.
- (3) The controlling authority must provide to the Minister any further information about the compliance arrangement that the Minister requests.

13 Content of compliance arrangement

A compliance arrangement for a regulated livestock management activity must contain the following—

- (a) a description of the quality assurance program or inspection and certification arrangement that constitutes the compliance arrangement;
- (b) an assessment of the likely risks to animal welfare and biosecurity that are posed by the relevant regulated livestock management activity;
- (c) strategies to ensure that the prescribed livestock management standard is complied with;
- (d) a system for accrediting livestock operators who are covered by the compliance arrangement;
- (e) verification arrangements designed so that a controlling authority will ensure, as far as is practicable, that the compliance arrangement is complied with;
- (f) any other prescribed measures are in place to ensure that any other requirement, as determined by the Minister under this Act is complied with.

14 Criteria for approval of compliance arrangement

The Minister must not approve a compliance arrangement under section 11 unless the Minister is satisfied that—

- (a) the compliance arrangement contains the details required by section 13; and

-
- (b) the compliance arrangement will ensure that the prescribed livestock management standards will be complied with.

15 Minister to issue letter of approval

- (1) On the Minister granting an approval under section 11, the Secretary must issue to the controlling authority a letter of approval.
- (2) A letter of approval issued under subsection (1) must contain the following—
- (a) the terms of approval of the compliance arrangement;
 - (b) any specific actions that are required under the compliance arrangement;
 - (c) any monitoring and reporting requirements in respect of the compliance arrangement;
 - (d) details of the acts or omissions that will constitute major non-conformance by the controlling authority with the compliance arrangement;
 - (e) details of the effect of non-compliance with the compliance arrangement;
 - (f) any requirements regarding the system by which livestock operators will be accredited to operate under the approved compliance arrangement;
 - (g) any requirements for the manner in which the controlling authority is to communicate with and report to the Department regarding the compliance arrangement;
 - (h) in relation to a regulated livestock management activity, any details of the acts or omissions that may result in a notice of suspension.

- (3) Within 21 days of receiving a letter of approval, a controlling authority must give written notice to the Secretary as to whether it accepts the terms of the letter of approval.
- (4) An approved compliance arrangement may contain any other provision agreed between the Minister and the controlling authority.

16 Minister to provide reasons for not approving a compliance arrangement

If the Minister refuses an application for approval of a compliance arrangement, the Minister must give written notice to the controlling authority of the decision setting out reasons for the decision.

17 Compliance monitoring

The Secretary must keep under regular review the extent of compliance with the terms of each approved compliance arrangement.

18 Minister may amend conditions of approved compliance arrangement by written notice

- (1) The Minister may, by written notice to a controlling authority, impose further conditions on an approved compliance arrangement.
- (2) A condition imposed under subsection (1) has effect from the date specified in the notice.
- (3) Within 21 days of receiving notice of a condition under this section, a controlling authority must give written notice to the Secretary as to whether it accepts the condition.

19 Audit of approved compliance arrangements

- (1) The Minister may require any controlling authority that is a party to an approved compliance arrangement to have the approved compliance arrangement audited for the purpose of determining whether the arrangement—

-
- (a) has been complied with during the period covered by the audit; and
 - (b) is still adequate at the date of the audit.
- (2) A requirement under subsection (1)—
- (a) must be made in writing; and
 - (b) may be made on a one-off basis or may require an audit to be performed annually or at any other specified frequency; and
 - (c) must specify the minimum qualifications or experience that must be held by the person who is to conduct the audit; and
 - (d) may impose restrictions relating to the suitability of persons to conduct the audit; and
 - (e) must specify by when, how and by whom the results of the audit are to be reported to the Department.
- (3) The Minister may vary any requirement under this section at any time by giving the controlling authority written notice of the variation.

20 Revocation or suspension

- (1) The Minister may revoke or suspend the approval of a compliance arrangement if the Minister considers that—
- (a) there has been a failure to comply with the approved compliance arrangement and the failure is so serious that it cannot be dealt with by increased monitoring requirements under the arrangement; or
 - (b) a controlling authority has committed an act or omission that constitutes a major non-conformance with the approved compliance arrangement that was specified in the letter of approval; or

- (c) a controlling authority has not accepted a condition imposed by the Minister under section 18 within the time specified in section 18(3); or
 - (d) there has been a failure to comply with any other requirement of the letter of approval.
- (2) If the Minister makes a decision under subsection (1), the Minister must give the controlling authority a written notice of the decision—
- (a) setting out the reasons for the decision; and
 - (b) if the approval is suspended, setting out the period of suspension.
- (3) A compliance arrangement ceases to be an approved compliance arrangement—
- (a) if the approval is revoked; or
 - (b) for the period that the approved compliance arrangement is suspended.
- (4) The Minister may at any time revoke the suspension of an approval by giving written notice of revocation to the controlling authority.

21 Suspension of approval of accredited livestock operator

- (1) The Minister may at any time suspend an approved compliance arrangement, to the extent that it applies to an accredited livestock operator, if the Minister is satisfied on reasonable grounds that a ground for suspension exists.
- (2) For the purposes of subsection (1), the grounds for suspension are—
- (a) that the operator has committed an act or omission that was specified in the letter of approval relating to the approved compliance arrangement as being one which may give rise to a declaration under this section; or

-
- (b) that the operator has committed an offence against this Act; or
 - (c) that the operator has committed an act or omission that, but for section 10, would be an offence under the regulations.
- (3) The Minister must give written notice of a suspension under subsection (1) to—
- (a) the person who is the subject of the suspension; and
 - (b) the controlling authority that is a party to the approved compliance arrangement.
- (4) A notice under subsection (3) must state—
- (a) the date on which the suspension takes effect; and
 - (b) the period of time of the suspension.
- (5) For the purposes of this Act, a person is taken not to be operating under an approved compliance arrangement in relation to a prescribed livestock management standard to which the compliance arrangement relates during the period of the suspension.
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PART 4—ADMINISTRATION

22 Delegations by Minister

The Minister may, by instrument, delegate to any person or class of persons employed in the administration of this Act any power of the Minister under this Act other than this power of delegation.

23 Delegations by Secretary

The Secretary may, by instrument, delegate to any person or class of persons employed in the administration of this Act any power of the Secretary under this Act other than this power of delegation.

24 Minister may approve forms

The Minister may, by notice published in the Government Gazette, approve any forms that the Minister considers necessary for the purposes of this Act or the regulations.

25 Minister may approve guidelines

- (1) The Minister may, by notice published in the Government Gazette, approve guidelines relating to any requirement of this Act or the regulations.
- (2) Without limiting subsection (1), the Minister may approve guidelines in relation to—
 - (a) the approval and administration of compliance arrangements;
 - (b) measures a person may take to comply with prescribed livestock management standards;
 - (c) compliance by a person who is not an accredited livestock operator and monitoring of the person in relation to a regulated livestock management activity.

26 Minister and Secretary to have regard to any guidelines

The Minister and Secretary, when making a decision under this Act, must have regard to any relevant guidelines approved under section 25.

PART 5—ENFORCEMENT

Division 1—Inspectors

27 Inspectors

- (1) The Secretary may, by instrument, appoint an appropriately qualified person or person in a class of persons employed under Part 3 of the **Public Administration Act 2004** to be an inspector for the purposes of this Act.
- (2) An appointment under subsection (1) remains in force for a period, not exceeding 3 years, that is specified in the instrument of appointment.
- (3) The Secretary may determine the terms and conditions of appointment of inspectors.
- (4) The instrument of appointment must specify—
 - (a) the provisions of this Act in relation to which the inspector is appointed; and
 - (b) the types of livestock in respect of which the inspector is appointed.
- (5) The Secretary may, in writing, revoke the appointment of an inspector at any time.
- (6) The terms and conditions of appointment may contain general directions as to how the inspector's powers may be exercised.

28 Inspector's identification certificate

- (1) The Secretary must issue an identification certificate to each inspector under this Act which sets out the provisions of this Act and the purposes for which the inspector is appointed.
- (2) An inspector must produce the inspector's identification certificate—
 - (a) before the inspector exercises any power under or for the purposes of this Act; and

- (b) to any person in charge or apparent control of the place or thing under investigation who requests its production.

29 Powers of inspectors

- (1) An inspector has the powers, functions and duties conferred or imposed on the inspector by or under this Act.
- (2) An inspector may exercise any powers under this Part for the purposes of determining whether this Act, the regulations or a prescribed livestock management standard is being or has been complied with.

30 Powers of inspectors of livestock

- (1) An inspector who is also an inspector of livestock within the meaning of the **Livestock Disease Control Act 1994** may exercise any powers of an inspector granted under that Act for the purpose of determining whether this Act, the regulations or a prescribed livestock management standard is being or has been complied with.
- (2) An inspector who is both an inspector of livestock within the meaning of the **Livestock Disease Control Act 1994** and a general inspector within the meaning of the **Prevention of Cruelty to Animals Act 1986** may exercise any powers of an inspector granted under the **Prevention of Cruelty to Animals Act 1986** for the purpose of determining whether this Act, the regulations or a prescribed livestock management standard is being or has been complied with.

Division 2—Powers of entry

31 Power to enter and inspect with consent

- (1) If an inspector reasonably believes that any provision of this Act, the regulations or a prescribed livestock management standard has not

been or is not being complied with in respect of a place, the inspector may, at a reasonable time, enter and search the place with the consent of an occupier of the place.

- (2) An inspector must not enter and search any place under this section unless, before the occupier consents to that entry, the inspector has informed the occupier—
 - (a) of the purpose of the search; and
 - (b) that the occupier may refuse to give consent to the entry and search; and
 - (c) that the occupier may refuse to consent to the taking of any sample of livestock, a livestock product or fodder during the search; and
 - (d) that the occupier may refuse to allow an examination of livestock, livestock product, equipment, machinery or facility during the search; and
 - (e) that the occupier may refuse to answer questions during the search; and
 - (f) that the occupier may refuse to give consent to the taking of photographs (including video recordings) of a thing or things of a particular kind; and
 - (g) that any sample of a thing taken during the search with the consent of the occupier may be used in evidence in proceedings.
- (3) If an occupier consents to the taking of a sample during a search under this section, the inspector must, before taking the sample, ask the occupier to sign an acknowledgment stating—
 - (a) that the occupier has consented to the taking of the sample; and

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- (b) the date and time that the occupier consented.
 - (4) An occupier who signs an acknowledgment must be given a copy of the signed acknowledgment before the inspector leaves the place.
 - (5) This section does not limit any other power that an inspector may have to enter a place under this Act or any other Act.

32 Application for search warrants

- (1) This section applies if an inspector believes on reasonable grounds that—
 - (a) a person or persons in connection with a place may have contravened this Act, the regulations or a prescribed livestock management standard; and
 - (b) the inspector has been, or is likely to be, refused entry to that place.
- (2) An inspector, with the written approval of the Secretary, may apply to a magistrate for the issue of a search warrant in relation to a specified place.
- (3) If a magistrate is satisfied, by the evidence, on oath or by affidavit, of the inspector that there are reasonable grounds to believe that—
 - (a) it is reasonably necessary that the inspector should have access to the place for the purpose of exercising the inspector's powers or performing the inspector's functions under this Act; and
 - (b) a contravention of this Act, the regulations or a prescribed livestock management standard has been or is suspected to have been committed, or is being or is likely to be committed within 72 hours—

the magistrate may issue a search warrant, in accordance with the **Magistrates' Court Act 1989**, authorising an inspector named in the warrant, together with any other person or persons named or otherwise identified in the warrant and with any necessary equipment—

- (c) to enter the place specified in the warrant, by force if necessary; and
- (d) to exercise all or any of the powers set out in Division 3.

33 Information to be included in a search warrant

- (1) A search warrant issued under this Division must state—
 - (a) the purpose for which the search is required and the nature of the alleged contravention; and
 - (b) any conditions to which the warrant is subject; and
 - (c) whether entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and
 - (d) a day, not later than 28 days after the issue of the warrant, on which the warrant ceases to have effect.
- (2) Except as provided by this Act, the rules to be observed with respect to search warrants under the **Magistrates' Court Act 1989** extend and apply to warrants under this Part.

34 Announcement before entry

- (1) On executing a search warrant, the inspector executing the warrant—
 - (a) must announce that the inspector is authorised by the warrant to enter the place; and

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- (b) if the inspector has been unable to obtain unforced entry, must give any person at the premises an opportunity to allow entry to the place.
 - (2) An inspector need not comply with subsection (1) if the inspector believes, on reasonable grounds, that immediate entry to the place or vehicle is required to ensure—
 - (a) the safety of any person; or
 - (b) that the effective execution of the search warrant is not frustrated.

35 Details of warrant to be given to occupier

- (1) If the occupier is present at a place where a search warrant is being executed, the inspector must—
 - (a) identify himself or herself to the occupier; and
 - (b) give a copy of the warrant to the occupier.
- (2) If the occupier is not present at a place where a search warrant is being executed, the inspector must—
 - (a) identify himself or herself to any person at the premises; and
 - (b) give to the person a copy of the warrant.

36 Emergency powers

- (1) This section applies if an inspector reasonably believes, in relation to a place, that there has been a contravention of this Act or the regulations which has resulted or is likely to result in an emergency.
- (2) An inspector may enter any place and exercise the powers set out in Division 3 without the consent of the occupier or a search warrant.

Division 3—Inspector's powers on entry

37 Application of Division

- (1) This Division applies if an inspector has entered a place or vehicle under Division 2.
- (2) An inspector must exercise the powers under this Division—
 - (a) at a reasonable time; and
 - (b) for no longer than necessary.
- (3) If an inspector enters a place under section 31, the exercise of any power under this Division is subject to any refusal of consent under section 31.

38 Power to search, inspect or examine

An inspector may search, inspect or examine—

- (a) any premises that the inspector reasonably believes is or was used in connection with a regulated livestock management activity; or
- (b) any livestock, livestock product, equipment, machinery, item of plant or facility that the inspector reasonably believes is or was used in connection with a regulated livestock management activity; or
- (c) any vehicle that the inspector reasonably believes is or was used in connection with a regulated livestock management activity.

39 Powers regarding production of documents

- (1) An inspector may require a person to produce any document that is required by or under this Act and any other document that the inspector reasonably requires and—
 - (a) examine that document; or

- (b) make copies of it or take extracts from it; or
 - (c) remove the document for as long as is reasonably necessary to make copies or take extracts.
- (2) If an inspector retains possession of a document seized from a person pursuant to a search warrant under section 32 or seized in accordance with this Division, the inspector must give the person, within 21 days of the seizure, a copy of the document certified as correct by the inspector.

40 Power to require information

An inspector may require a person—

- (a) to answer a question to the best of that person's knowledge, information and belief; or
- (b) to take reasonable steps to provide information.

41 Power to take samples

- (1) An inspector may take and remove for examination samples of or from any livestock, livestock product or fodder.
- (2) An inspector may submit any sample taken in accordance with this Act to a laboratory or place approved by the Secretary for examination.
- (3) In this section, *fodder* has the same meaning as in the **Livestock Disease Control Act 1994**.

42 Power to take photographs, etc

An inspector may take photographs or measurements or make sketches or recordings.

Division 4—Further powers of inspectors

43 Power to stop and detain vehicles

- (1) If an inspector reasonably believes that a vehicle is or was being used for a regulated livestock management activity, an inspector may—
 - (a) stop and detain any vehicle; or
 - (b) direct any person in charge of or apparently in charge of the vehicle to proceed to a specified place and stop.
- (2) Before giving a direction under subsection (1)(b), an inspector must inform the person that the inspector reasonably believes that the vehicle is or was being used for a regulated livestock management activity.

44 Inspector may use assistants

An inspector may, in performing any function under this Act, request the assistance of any person, including a police officer, to perform that function.

45 Where occupier not present

- (1) If an inspector exercises a power under Division 2 or 3 at a place and the occupier of the place is not present, the inspector must, before leaving the place, leave a notice of entry.
- (2) A notice given under subsection (1) must contain the following details—
 - (a) the time of entry;
 - (b) the purpose of the entry;
 - (c) a description of all things done by the inspector while in the place;
 - (d) the time of departure;

S. 44
amended by
No. 37/2014
s. 10(Sch.
item 98.2).

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- (e) the procedure for contacting the inspector for further details of the entry.

Division 5—Notices to comply

46 Inspector may issue notice to comply

- (1) This section applies if an inspector reasonably believes that a person has contravened, or failed to comply with—
- (a) a prescribed livestock management standard; or
 - (b) section 7 or 8; or
 - (c) in the case of an accredited livestock operator, an approved compliance arrangement.
- (2) An inspector may issue a notice to comply to the person.

47 Content of notice to comply

- (1) A notice to comply must include the following details—
- (a) the prescribed livestock management standard, section of this Act, approved compliance arrangement or requirement set out in a letter of approval that is reasonably believed to have been contravened or not complied with;
 - (b) the action that the person must undertake in relation to the contravention or non-compliance;
 - (c) the time within which the required action must be taken.

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- (2) Without limiting subsection (1), a notice to comply may include directions to do any or all of the following—
- (a) improve the condition of specified premises, facilities, equipment or a vehicle to the degree required by a prescribed livestock management standard;
 - (b) replace specified facilities, equipment or a vehicle that may not comply with a prescribed livestock management standard;
 - (c) perform any other action to ensure compliance with this Act, the regulations, an approved compliance arrangement, the requirements of a letter of approval or a prescribed livestock management standard.

48 Offence not to comply with notice to comply

- (1) A person must not, without reasonable excuse, knowingly, negligently or recklessly fail to comply, within the time specified in the notice, with a notice to comply that is issued to the person for a breach of section 7.

Penalty: 10 penalty units.

- (2) A person must not, without reasonable excuse, knowingly, negligently or recklessly fail to comply, within the time specified in the notice, with a notice to comply that is issued to the person for a contravention of or failure to comply with a provision of this Act (other than section 7), the regulations or a prescribed livestock management standard.

Penalty: in the case of a natural person,
60 penalty units;
in the case of a body corporate,
300 penalty units.

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- (3) An accredited livestock operator operating under an approved compliance arrangement is not liable to be prosecuted for an offence under this section unless the approved compliance arrangement is suspended in respect of that operator under section 21 or 49.

49 Inspector may issue notice of suspension

- (1) This section applies if—
- (a) an inspector reasonably believes that—
 - (i) a livestock operator is operating under an approved compliance arrangement and has contravened, or failed to comply with, a notice to comply issued under section 46; or
 - (ii) a livestock operator is operating under an approved compliance arrangement and has committed an act or omission that was specified in the letter of approval relating to the approved compliance arrangement as being one which may result in a notice of suspension; or
 - (iii) a livestock operator has committed an offence against this Act or the regulations; or
 - (b) a livestock operator has failed to comply with a prescribed livestock management standard and has failed to provide, on request by an inspector, sufficient information to satisfy the inspector that the livestock operator is operating under an approved compliance arrangement.
- (2) An inspector may issue a notice of suspension to the livestock operator.

- (3) A notice of suspension must state—
- (a) the date on which the suspension takes effect; and
 - (b) the period of time of the suspension.
- (4) An inspector must forward a copy of a notice of suspension to the controlling authority that is a party to the approved compliance arrangement to which the notice relates.
- (5) For the purposes of this Act, a livestock operator to whom a notice of suspension has been issued under subsection (2) is taken not to be operating under an approved compliance arrangement in relation to a prescribed livestock management standard to which the approved compliance arrangement relates during the period set out in the notice of suspension.

S. 49(5)
amended by
No. 29/2012
s. 19.

Division 6—Offence

50 Offence to endanger people or animals or risk disease

- (1) A person who engages in a regulated livestock management activity must not knowingly, negligently or recklessly act or fail to act in a manner that results in serious risk—
- (a) to human health; or
 - (b) to animal welfare; or
 - (c) to biosecurity; or

S. 50(1)(a)
amended by
No. 29/2011
s. 3(Sch. 1
item 54).

S. 50(1)(c)
amended by
No. 29/2012
s. 20.

(d) of spreading disease.

Penalty: in the case of a natural person,
60 penalty units;
in the case of a body corporate,
300 penalty units.

- (2) A person does not commit an offence under subsection (1) if the person was—
- (a) acting reasonably in good faith; or
 - (b) acting reasonably in the public interest.
- (3) An accredited livestock operator is not liable to be prosecuted for an offence under this section if the act or omission occurred in the course of operating under an approved compliance arrangement unless the approved compliance arrangement is suspended in respect of that operator under section 21 or 49.

Division 7—Infringement notices

51 Power to serve a notice

- (1) If an inspector has reason to believe that a person has committed an offence against the regulations prescribed for the purposes of this Division, the inspector may serve an infringement notice on that person.
- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

S. 51(1)
amended by
No. 29/2012
s. 21.

52 Penalties to be paid for offences under infringement notices

The penalty for an offence for which an infringement notice has been issued is the penalty prescribed by the regulations, which must not exceed 5 penalty units.

Division 8—Provisions related to court proceedings

53 Power to file charges under this Act

A charge-sheet for an offence under this Act or the regulations may only be filed by—

(a) a police officer; or

(b) an inspector.

54 Service of documents

Except where otherwise provided for in this Act, a notice (other than an infringement notice) or other document authorised or required by this Act to be served on or given to a person is to be taken to have been served on or given to that person—

(a) if it is delivered to the person personally; or

(b) if it is left at the address of the person's last known residence or business premises with a person apparently over 16 years of age and apparently residing or employed there; or

(c) if it is sent to the person by post.

55 Offences by bodies corporate

(1) If a body corporate contravenes any provision of this Act or the regulations, each officer of the body corporate is taken to have contravened the same provision if the officer knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision in accordance with subsection (1) whether or not the body corporate has been proceeded against under that provision.

(3) Nothing in this section affects any liability imposed on a body corporate for an offence

S. 53(a)
substituted by
No. 37/2014
s. 10(Sch.
item 98.3).

committed by the body corporate against this Act or the regulations.

56 Conduct by officers, employees or agents of a body corporate

- (1) If, in any proceedings under this Act or the regulations, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show—
- (a) that the conduct was engaged in by an officer of that body corporate within the scope of the officer's actual or apparent authority and the officer had that state of mind; or
 - (b) that the conduct was engaged in by an agent of the body corporate and—
 - (i) the agent acted at the specific direction or with the specific consent or agreement of the body corporate; and
 - (ii) the agent had that state of mind; and
 - (iii) the body corporate was aware of the agent's state of mind when the conduct was engaged in.
- (2) For the purposes of any proceedings under this Act or the regulations, any conduct engaged in on behalf of a body corporate is taken to have been engaged in also by the body corporate if the conduct was engaged in by—
- (a) an officer of the body corporate within the scope of the officer's actual or apparent authority; or
 - (b) any other person at the specific direction or with the specific consent or agreement of an officer of the body corporate, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the officer.

Division 9—General

57 Evidence of certain matters

- (1) A document appearing to be a copy of an instrument of appointment of an inspector, an approval granted under this Act or the regulations or a notice issued under this Act, if accompanied by a certificate appearing to be signed by the Secretary to the effect that it is a copy, is evidence and, in the absence of evidence to the contrary, is proof of the existence and contents of the original.
- (2) A certificate appearing to be signed by the Secretary to the effect that, on a date specified in the certificate, a person held or did not hold an approval under this Act specified in the certificate is evidence and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate.

58 Offences relating to enforcement

- (1) A person must not—
 - (a) without reasonable excuse obstruct or hinder an inspector in exercising the inspector's powers under this Act; or
 - (b) contravene a lawful direction, order or requirement of an inspector; or
 - (c) refuse to answer a question lawfully asked by an inspector or to produce a document lawfully required by an inspector; or
 - (d) give, procure or offer or promise any bribe, recompense, inducement or reward to influence an inspector in the exercise of the inspector's powers or the discharge of the inspector's duties under this Act or attempt to do so; or

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- (e) interfere with anything done by an inspector in the exercise of the inspector's powers under this Act.

Penalty: 10 penalty units.

- (2) A person must not—
- (a) give to an inspector any information or answer that is false or misleading; or
 - (b) include in an application or request to the Secretary under this Act a statement that the person knows to be false or misleading in a material respect.

Penalty: 60 penalty units.

- (3) Despite anything to the contrary in this Act, a person may refuse to answer an inspector's question or to produce a document to the inspector if the person believes that the answer or information in the document would tend to incriminate the person.

59 Livestock operators and employers responsible for the acts of their employees and contractors

- (1) A livestock operator or employer is liable under this Act for anything done or not done by an employee or contractor in the course of carrying out the regulated livestock management activity of the livestock operator or employer.
- (2) It is a defence to any offence under this Act or the regulations if the person who committed the contravention did so under the instruction or direction of a livestock operator or the person's employer.

60 Evidence

In any legal proceedings under this Act—

- (a) the production of a copy of the Government Gazette containing any matters required by or under this Act to be published in the Government Gazette is conclusive evidence of those matters; and
- (b) in the absence of evidence to the contrary, proof is not required of—
 - (i) the appointment of a person as an inspector; or
 - (ii) the appointment of any other employee in the Department for the purposes of this Act; or
 - (iii) the authority of any inspector appointed under section 27 to take proceedings for an offence under this Act.

61 Neglect to prosecute

If a person who filed a charge-sheet for an alleged offence under this Act or the regulations does not appear at the hearing or in any other way fails to proceed with the prosecution, the court hearing the alleged offence may authorise another person to take or continue the proceedings for that offence, whether on that charge or not.

62 Liability for offences

- (1) If two or more persons are guilty of an offence under this Act or the regulations, each of those persons is liable to the penalty for that offence without affecting the liability of any other person.
- (2) Any person who aids or abets the commission of an offence under this Act or the regulations is guilty of the offence.

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- (3) If this Act provides or the regulations provide that a person, being a partnership or an unincorporated body, is guilty of an offence, that reference to a person is to be construed as a reference to each member of the partnership or of the committee of management of the unincorporated body (as the case may be).
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PART 6—GENERAL

63 Regulations

- (1) The Governor in Council may make regulations for or with respect to—
- (a) prescribing livestock management standards;
 - (b) prescribing offences for breaches of prescribed livestock management standards;
 - (c) the manner of compliance with prescribed livestock management standards;
 - (d) grounds for the approval of a compliance arrangement;
 - (e) the criteria that must be included in a letter of approval;
 - (f) grounds for suspension or revocation of an approved compliance arrangement;
 - (g) prescribing fees and charges for the provision of services;
 - (h) generally prescribing any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations—
- (a) may be of general or limited application; and
 - (b) may differ according to differences in time, place or circumstances; and
 - (c) may leave any matter to be approved or determined by an inspector or the Secretary; and
 - (d) may confer powers or impose duties on an inspector; and

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- (e) may apply, adopt or incorporate by reference any document either—
- (i) as formulated, issued, prescribed or published at the time the regulation is made or any time before the regulation is made; or
 - (ii) as published or amended from time to time; and
- (f) may require any application or other document required by this Act to be verified by statutory declaration; and
- (g) may impose penalties not exceeding 20 penalty units for any contravention of the regulations or a prescribed livestock management standard; and
- (h) in the case of fees, may provide for any or all of the following—
- (i) specific fees;
 - (ii) maximum fees;
 - (iii) differential fees;
 - (iv) fees to be fixed and collected by the Secretary.
- (3) The regulations are subject to disallowance by a House of the Parliament.
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ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 10 December 2009

Legislative Council: 11 March 2010

The long title for the Bill for this Act was "A Bill for an Act to regulate livestock management in Victoria and for other purposes."

The **Livestock Management Act 2010** was assented to on 20 April 2010 and came into operation on 1 January 2011: section 2(2).

2. Table of Amendments

This Version incorporates amendments made to the **Livestock Management Act 2010** by Acts and subordinate instruments.

Statute Law Revision Act 2011, No. 29/2011

Assent Date: 21.6.11
Commencement Date: S. 3(Sch. 1 item 54) on 22.6.11: s. 2(1)
Current State: This information relates only to the provision/s amending the **Livestock Management Act 2010**

Primary Industries Legislation Amendment Act 2012, No. 29/2012

Assent Date: 29.5.12
Commencement Date: Ss 19–21 on 1.9.12: Special Gazette (No. 267) 31.7.12 p. 1
Current State: This information relates only to the provision/s amending the **Livestock Management Act 2010**

Statute Law Revision Act 2013, No. 70/2013

Assent Date: 19.11.13
Commencement Date: S. 4(Sch. 2 item 27) on 1.12.13: s. 2(1)
Current State: This information relates only to the provision/s amending the **Livestock Management Act 2010**

Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 98) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s amending the **Livestock Management Act 2010**

Endnotes

3. Explanatory Details

No entries at date of publication.