



AUSTRALIAN CAPITAL TERRITORY

Stock (Amendment) Act 1999

No. 14 of 1999

An Act to amend the *Stock Act 1991*

[Notified in ACT Gazette S16: 14 April 1999]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1. Short title

This Act may be cited as the *Stock (Amendment) Act 1999*.

2. Commencement

This Act commences on the day on which it is notified in the *Gazette*.

3. Principal Act

In this Act, “Principal Act” means the *Stock Act 1991*.¹

4. Long title

The title of the Principal Act is repealed and the following title substituted:

“An Act relating to stock and ruminants”.

5. Insertion

After Part 4 of the Principal Act the following Part is inserted:

“PART 4A—FEEDING OF MAMMALIAN MATERIAL TO RUMINANTS

“36A. Interpretation

“(1) In this Part, unless the contrary intention appears—

- ‘analyst’ means an analyst under section 36N;
- ‘animal’ does not include a fish or a bird;
- ‘bag’ includes a container or package;
- ‘bulk’, in relation to feed or meal, means sold or supplied other than in a bag;
- ‘compounded feed’ means feed that includes material of animal origin;
- ‘mammalian material’ means mammalian tissue or meal of mammalian origin other than—
 - (a) tallow;
 - (b) gelatine;
 - (c) meat products that may lawfully have been offered for sale for human consumption in Australia;
 - (d) milk, milk products or milk protein;
 - (e) porcine, equine or macropod material; or
 - (f) blood, blood products or blood meal;
- ‘mammalian material statement’ means a statement that is a mammalian material statement by virtue of subsection 36B (1);
- ‘meal’ means meat meal, bone meal, meat and bone meal or any other meal of animal origin;
- ‘non-mammalian material statement’ means a statement that is a non-mammalian material statement by virtue of subsection 36B (2);
- ‘tag’ means a tag with dimensions of at least 45 millimetres by 120 millimetres.

“(2) For the purposes of this Part, a thing is connected with a particular offence if—

- (a) the offence has been committed with respect to it;

- (b) it will afford evidence of the commission of the offence; or
- (c) it was used, is being used, or is intended to be used, for the purpose of committing the offence.

“36B. Warning statements

“(1) For the purposes of this Part, a mammalian material statement is any of the following statements or a statement to the effect of any of the following statements:

- (a) ‘This product contains mammalian material—DO NOT FEED TO CATTLE, SHEEP, GOATS, DEER OR OTHER RUMINANTS’;
- (b) ‘This product contains mammalian material—DO NOT FEED TO RUMINANTS’;
- (c) ‘DO NOT FEED TO RUMINANTS’;
- (d) ‘For non-ruminant use only’.

“(2) For the purposes of this Part, a non-mammalian material statement is the following statement or a statement to the effect of the following statement:

‘This product does not contain mammalian material’.

“36C. Manufacture of ruminant food

“(1) A person shall not manufacture compounded feed or meal intended for ruminant use that includes mammalian material.

Penalty:

- (a) if the offender is a natural person—100 penalty units or imprisonment for 1 year, or both;
- (b) if the offender is a body corporate—500 penalty units.

“(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that he or she took all reasonable precautions to prevent the inclusion of mammalian material in the feed or meal.

“36D. Sale or supply of compounded feed and meal

“(1) A person shall not, without reasonable excuse, sell or supply compounded feed, or meal, in bulk to a person unless—

- (a) where the feed or meal contains mammalian material—the invoice or other document relating to the sale or supply contains a prominently displayed mammalian material statement that complies with subsections (3) and (4); or

- (b) in any other case—the invoice or other document relating to the sale or supply contains a prominently displayed non-mammalian material statement that complies with subsections (3) and (4).

Penalty:

- (a) if the offender is a natural person—100 penalty units or imprisonment for 1 year, or both;
- (b) if the offender is a body corporate—500 penalty units.

“(2) A person shall not, without reasonable excuse, sell or supply compounded feed, or meal, in a bag to a person unless—

- (a) where the feed or meal contains mammalian material—a statement on the bag, a label on the bag or a tag attached to the bag contains a prominently displayed mammalian material statement that complies with subsections (3) and (4); or
- (b) in any other case—a statement on the bag, a label on the bag or a tag attached to the bag contains a prominently displayed non-mammalian material statement that complies with subsections (3) and (4).

Penalty:

- (a) if the offender is a natural person—100 penalty units or imprisonment for 1 year, or both;
- (b) if the offender is a body corporate—500 penalty units.

“(3) For the purposes of this section, a statement referred to in this section shall be produced—

- (a) in letters at least 3 millimetres high; and
- (b) in dark print on a light background.

“(4) Where a statement, or part of a statement, referred to in subsection (1) or (2) is in upper-case letters in section 36B and is reproduced for the purposes of this section, that statement or part shall be reproduced in upper-case letters.

“(5) This section does not apply to—

- (a) material sold or supplied as pet food, including food for aquarium fish and caged birds other than poultry; or
- (b) food sold or supplied for feeding to non-ruminant laboratory animals.

“36E. Obscuring of statements

A person shall not, without reasonable excuse, mark or deface an invoice or other document relating to compounded feed, or meal, so as to obscure a mammalian material statement or a non-mammalian material statement contained in that invoice or document.

Penalty:

- (a) if the offender is a natural person—10 penalty units;
- (b) if the offender is a body corporate—50 penalty units.

“36F. Removal of tags or labels

A person shall not, without reasonable excuse, remove, or cause or permit to be removed, a label or tag containing a mammalian material statement or a non-mammalian material statement from a bag containing compounded feed or meal.

Penalty:

- (a) if the offender is a natural person—10 penalty units;
- (b) if the offender is a body corporate—50 penalty units.

“36G. Feeding mammalian material to ruminants

“(1) A person shall not, without reasonable excuse, feed mammalian material to a ruminant.

Penalty:

- (a) if the offender is a natural person—100 penalty units or imprisonment for 1 year, or both;
- (b) if the offender is a body corporate—500 penalty units.

“(2) A person shall not, without reasonable excuse, feed bulk compounded feed or bulk meal to a ruminant if the invoice or other document relating to the purchase of the feed or meal contains a mammalian material statement.

Penalty:

- (a) if the offender is a natural person—100 penalty units or imprisonment for 1 year, or both;
- (b) if the offender is a body corporate—500 penalty units.

“(3) A person shall not, without reasonable excuse, feed bagged compounded feed or bagged meal to a ruminant if a statement on the bag, a label on the bag, or a tag attached to the bag contains a mammalian material statement.

Penalty:

- (a) if the offender is a natural person—100 penalty units or imprisonment for 1 year, or both;
- (b) if the offender is a body corporate—500 penalty units.

“(4) This section does not apply to a person who feeds mammalian material to a ruminant in accordance with an approval under subsection (5).

“(5) The Minister may, by instrument, approve the feeding of mammalian material to a ruminant for research purposes where the Minister is satisfied the research is in the public interest.

“36H. Inspectors—powers of entry

“(1) Where an inspector has reasonable grounds for believing that there may be on any premises a thing of a particular kind connected with an offence against this Part, the inspector may enter premises—

- (a) with the consent (obtained pursuant to section 36I) of the occupier or a person apparently in charge of the premises; or
- (b) pursuant to a search warrant under section 36J.

“(2) An inspector may enter premises under subsection (1) with such assistance and by such force as is necessary and reasonable.

“36I. Inspectors—consent to entry

“(1) Before obtaining the consent of a person for the purposes of paragraph 36H (1) (a), an inspector shall—

- (a) produce his or her identity card; and
- (b) inform the person that he or she may refuse to give consent.

“(2) Where an inspector obtains the consent of a person for the purposes of paragraph 36H (1) (a), the inspector shall ask the person to sign a written acknowledgment of—

- (a) the fact that the person has been informed that he or she may refuse to give consent;
- (b) the fact that the person has voluntarily given consent; and
- (c) the day on which, and the time at which, the consent was given.

“(3) An entry by an inspector by virtue of a person’s consent is not lawful unless the consent was voluntary.

“(4) Where it is material in any proceedings for a court to be satisfied that the consent of a person for the purposes of paragraph 36H (1) (a) was voluntary and a signed acknowledgment in accordance with subsection (2) is

not produced in evidence, the court shall assume, unless the contrary intention is proved, that the consent was not voluntary.

“36J. Inspectors—search warrants

“(1) Where—

- (a) an information is laid on oath before a magistrate alleging that an inspector has reasonable grounds for believing that there may be on any premises a thing of a particular kind connected with a particular offence against this Part; and
- (b) the information sets out those grounds;

the magistrate may issue a search warrant authorising the inspector named in the warrant, with such assistance and by such force as is necessary and reasonable—

- (c) to enter the premises described in the warrant;
- (d) to search the premises for things of the kind mentioned in paragraph (a); and
- (e) to exercise any of the powers listed in section 36L in relation to those things.

“(2) A magistrate shall not issue a warrant unless—

- (a) the informant or another person has given the magistrate, either orally on oath or by affidavit, any further information that the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
- (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

“(3) A warrant shall—

- (a) state the purpose for which it is issued, including a reference to the nature of the offence in connection with which the entry and search is authorised;
- (b) state that the entry is authorised at any time of the day or night, or specify the hours during which the entry is authorised;
- (c) include a description of the kind of things in relation to which the powers listed in section 36L may be exercised; and
- (d) specify a date, not later than 1 month after the date on which the warrant is issued, on which the warrant ceases to have effect.

“(4) If, in the course of searching pursuant to a warrant for things of a particular kind connected with a particular offence, an inspector finds a thing that the inspector has reasonable grounds for believing to be—

- (a) connected with the offence, although not a thing of the kind specified in the warrant; or
- (b) connected with another offence against this Part;

the warrant shall be taken to authorise the inspector to exercise the powers listed in section 36L in relation to that thing.

“36K. Inspectors—identity cards must be produced

An inspector who enters premises under subsection 36H (1) is not authorised to remain on the premises if, on request by the occupier or a person apparently in charge of the premises, the inspector does not produce his or her identity card.

“36L. Inspectors—inspection of premises

“(1) An inspector who enters premises under subsection 36H (1) may do any of the following:

- (a) inspect or examine the premises or anything on the premises;
- (b) take samples for analysis;
- (c) take photographs, films, or audio, video or other recordings;
- (d) take copies of, or extracts from, any document;
- (e) subject to subsection (2), seize anything on the premises.

“(2) An inspector may seize anything pursuant to paragraph (1) (e) if he or she has reasonable grounds for believing that it is connected with an offence against this Part and the seizure is necessary to prevent the thing being—

- (a) concealed, lost, damaged or destroyed; or
- (b) used to commit the offence.

“36M. Inspectors—procedure where samples taken

Where an inspector takes a sample under section 36L, the inspector shall—

- (a) divide the sample into 3 parts;
- (b) place each of those parts in a separate container and seal each container;

- (c) attach to each container a label bearing the signature of the inspector and particulars of the date and time when, and the place at which, the sample was taken; and
- (d) deliver 1 of the 3 containers to each of the following persons:
 - (i) the occupier or the person apparently in charge of the premises;
 - (ii) an analyst;
 - (iii) the Controller.

“36N. Analysts

“(1) There shall be 1 or more analysts for the purposes of this Act.

“(2) The following persons shall be analysts:

- (a) the Government Analyst under subsection 183A (2) of the *Drugs of Dependence Act 1989*;
- (b) any other person appointed in writing by the Controller for the purpose.

“36O. Appointment of analysts

The Controller may, by instrument, appoint a person to be an analyst for the purposes of paragraph 36N (2) (b).

“36P. Evidence of analysis

“(1) An analyst may make a certificate stating the following matters in relation to a sample taken under this Part:

- (a) that he or she has analysed, or caused to be analysed, a sample from a sealed container to which was affixed a label purporting to be signed by the inspector named in the certificate and bearing particulars of the date and time when, and the place at which, the sample was taken by the inspector;
- (b) to what analysis the sample was subjected;
- (c) the results of the analysis.

“(2) In a prosecution for an offence against this Part, a certificate under subsection (1) purporting to be signed by an analyst is evidence of the matters stated in the certificate and of the facts on which they are based.

“(3) For the purposes of subsection (1), a certificate that purports to be signed by an analyst shall, unless the contrary is proved, be taken to have been signed by the analyst who purports to have signed it.

“36Q. Seized items

“(1) The Controller shall hold a thing seized under this Part for the purpose of adducing evidence in a prosecution for an offence against this Part.

“(2) The Controller may authorise the release of a thing held under subsection (1) to its owner or the person who had possession, custody or control of the thing immediately before it was seized.

“(3) Where a thing is seized under this Part and—

- (a) a prosecution for an offence against this Part involving the thing is instituted within 6 months; and
- (b) the defendant is found guilty;

the court may make any order in relation to the thing.

“(4) Where a thing is seized under this Part and—

- (a) a prosecution for an offence against this Part is not instituted within 6 months; or
- (b) a prosecution is instituted within that period and—
 - (i) the prosecution is discontinued;
 - (ii) the defendant is found not guilty; or
 - (iii) the court does not make an order under subsection (2);

the Controller shall release the thing to its owner or the person who had possession, custody or control of the thing immediately before it was seized.”.

NOTES

Principal Act

1. Reprinted as at 31 January 1995. See also Acts Nos. 25 and 46, 1995; No. 54, 1998.

Penalty units

See section 33AA of the *Interpretation Act 1967*.

[Presentation speech made in Assembly on 11 March 1999]