

Version No. 058
Livestock Disease Control Act 1994
No. 115 of 1994
Version incorporating amendments as at 1 July 2010

TABLE OF PROVISIONS

| <i>Section</i> | <i>Page</i> |
|---|-------------|
| PART 1—PRELIMINARY | 1 |
| 1 Purposes | 1 |
| 2 Commencement | 1 |
| 3 Definitions | 2 |
| 4 Objectives | 6 |
| 5 Binding of Crown | 7 |
| 6 Governor in Council may make Orders | 7 |
| PART 2—PROVISIONS APPLYING TO DISEASES GENERALLY | 9 |
| Division 1—Responsibilities of owners and others | 9 |
| 7 Notification of diseases | 9 |
| 8 Isolation of livestock | 10 |
| 9 Identification of livestock | 10 |
| 9A Permanent identification of livestock | 11 |
| 9B Property identification numbers | 13 |
| 9C Requirements for manufacturers of tags and devices | 14 |
| 10 Entry of livestock etc. | 15 |
| 11 Quarantine areas | 16 |
| 12 Offences | 17 |
| Division 2—Controls over livestock | 18 |
| 13 Isolation of livestock | 18 |
| 14 Destruction or disposal of livestock | 19 |
| 15 Destruction or disposal of diseased livestock | 20 |
| 16 Testing for diseases | 21 |
| Division 3—Agreements and contracts | 22 |
| 17 Agreements with owners of livestock | 22 |
| 18 Contracts with veterinary practitioners | 23 |

| <i>Section</i> | <i>Page</i> |
|--|-------------|
| PART 3—EXOTIC DISEASES | 24 |
| Division 1—Preliminary | 24 |
| 19 Application of this Part to land | 24 |
| 20 Application of this Part to livestock | 25 |
| Division 2—Declared areas | 25 |
| 21 Declaration of infected place | 25 |
| 22 Declaration of infected vehicle | 26 |
| 23 Notice of order declaring area or vehicle infected | 26 |
| 24 Permit for entry or exit | 26 |
| 25 Entry and exit points | 28 |
| 26 Declaration of restricted area | 29 |
| 27 Permits for activity in restricted area | 29 |
| 28 Entry to and exit from restricted areas | 31 |
| 29 Control area | 33 |
| 30 Permit for activity in a control area | 34 |
| 31 Further powers under Orders declaring restricted or control areas | 35 |
| Division 3—Importation orders | 36 |
| 32 Border security | 36 |
| 33 Contravention of importation order | 37 |
| 34 Notification of importation order | 37 |
| 35 Duration of importation order | 38 |
| Division 4—Destruction orders | 38 |
| 36 Destruction of buildings and vehicles | 38 |
| 37 Notice of destruction order | 38 |
| 38 Enforcement of destruction order | 39 |
| Division 5—Exotic disease agents | 39 |
| 39 Possession or administration of exotic disease agents | 39 |
| Division 6—General | 40 |
| 40 Other powers and liabilities not affected | 40 |
| PART 4—PROVISIONS FOR PARTICULAR LIVESTOCK | 41 |
| Division 1—Pigs | 41 |
| 41 Swill feeding of pigs | 41 |
| Division 2—Sewage farm cattle and pigs | 42 |
| 42 Definition and application | 42 |
| 43 No cattle or pigs on sewage land | 42 |
| 44 Sewerage authority may graze cattle | 44 |

| <i>Section</i> | <i>Page</i> |
|---|-------------|
| Division 3—Dairying animals | 45 |
| 45 Prohibition of use of cow, goat, sheep or buffalo for dairying | 45 |
| Division 4—<i>Repealed</i> | 47 |
| 46, 47 <i>Repealed</i> | 47 |
| Division 5—Bees | 47 |
| 48 Registration of beekeepers | 47 |
| 49 Annual fees | 48 |
| 50 Hives to be marked with registered brand | 48 |
| 51 Disposal and acquisition of hives | 48 |
| 52 Exposure of bees to infected articles etc. | 49 |
| 53 Access of bees to honey etc. | 49 |
| Division 6—Artificially bred livestock | 49 |
| 54 Application of Division | 49 |
| 55 Sale of semen prohibited except from approved sires | 50 |
| 56 Sale of diseased semen prohibited | 50 |
| 57 Premises for collection of semen to be licensed | 50 |
| 58 Training courses about artificial breeding | 51 |
| PART 5—COMPENSATION | 52 |
| Division 1—Exotic diseases compensation | 52 |
| 59 Exotic Diseases Fund | 52 |
| 60 Payment out of Fund | 53 |
| 61 Compensatable exotic diseases | 53 |
| 62 Payment of compensation | 53 |
| 63 Amount of compensation | 54 |
| 64 Reduction of compensation | 54 |
| 65 Review by Victorian Civil and Administrative Tribunal | 55 |
| Division 2—Bees compensation | 56 |
| 66 Bees Compensation Fund | 56 |
| 67 Payments out of the Fund | 56 |
| 68 Compensatable disease | 57 |
| 69 Compensation | 57 |
| 70 Apicultural Industry Advisory Committee | 58 |
| Division 3—Cattle compensation | 60 |
| 71 Cattle Compensation Fund | 60 |
| 72 Payments out of the Fund | 60 |
| 73 Compensatable diseases | 61 |
| 74 Amount of compensation | 62 |
| 75 Payment of compensation | 62 |
| 76 No compensation payable | 63 |

| <i>Section</i> | <i>Page</i> |
|--|-------------|
| 77 Compensation payable out of Fund | 64 |
| 78 Sale of carcasses etc. | 64 |
| 79 Cattle Compensation Advisory Committee | 64 |
| Division 3A—Sheep and goat compensation | 66 |
| 79A Sheep and Goat Compensation Fund | 66 |
| 79B Payments out of the Fund | 67 |
| 79C Compensation payable for Johne's and declared diseases | 68 |
| 79D Amount of compensation | 68 |
| 79E Payment of compensation | 69 |
| 79F No compensation payable | 70 |
| 79G Compensation payable out of Fund | 70 |
| 79H Sale of carcasses etc. | 70 |
| 79HA Interstate sheep producers may apply for payment from fund in respect of duty paid | 70 |
| 79HB Secretary may grant or refuse application | 71 |
| 79I Sheep and Goat Compensation Advisory Committee | 72 |
| Division 4—Swine compensation | 73 |
| 80 Swine Compensation Fund | 73 |
| 81 Payments out of the Fund | 74 |
| 82 Compensatable diseases | 74 |
| 83 Payment of compensation | 75 |
| 84 No compensation payable | 76 |
| 85 Amount of compensation | 76 |
| 86 Sale of carcasses etc. | 77 |
| 87 Swine Industry Projects Advisory Committee | 77 |
| Division 5—General | 78 |
| 88 Claims for compensation | 78 |
| 89 No compensation for loss of profit etc. | 79 |
| 90 Valuation of livestock | 79 |
| 91 False claims | 80 |
| PART 6—STAMP DUTY AND RECORDS | 81 |
| 92 Payment of duty by owner of cattle, sheep, goats or pigs | 81 |
| 93, 94 <i>Repealed</i> | 83 |
| 94A Records of sales and purchases | 84 |
| 94B Notification about livestock slaughter or disposal | 85 |
| 95 Payment of duty by approved agents in respect to cattle | 86 |
| 95A Payment of duty by approved agents in respect to sheep and goats | 87 |
| 95B Payment of duty by approved agents in respect to pigs | 89 |
| 96 Offences | 91 |
| 96A Suspension of requirement to pay duty | 92 |
| 96B Evidence of ownership of livestock | 92 |

| <i>Section</i> | <i>Page</i> |
|--|-------------|
| PART 7—ADMINISTRATION | 93 |
| Division 1—Administration of licences, registrations etc. | 93 |
| 97 Applications | 93 |
| 98 Grant or refusal | 93 |
| 99 Term of licence or registration | 94 |
| 100 Cancellation or suspension | 94 |
| 101 Reviews by Victorian Civil and Administrative Tribunal | 95 |
| Division 2—General | 95 |
| 102 Delegations by Minister | 95 |
| 103 Delegations by Secretary | 96 |
| 104 Fees | 96 |
| 105 Protection of control programs | 97 |
| 106 Protection of persons assisting inspector | 98 |
| 107 Non-compliance under order | 98 |
| 107A Information collection | 99 |
| 107B Records of notifications etc. | 99 |
| 107C Secrecy | 102 |
| PART 8—ENFORCEMENT | 103 |
| Division 1—Inspectors | 103 |
| 108 Inspectors | 103 |
| Division 2—General powers of inspector | 104 |
| 109 General powers of inspectors | 104 |
| 110 Quarantine notice | 106 |
| 111 Duration of notice | 107 |
| 112 Offence | 107 |
| 113 Disinfection notice | 107 |
| 114 Offence | 108 |
| 115 Treatment notice | 108 |
| 115A Identification notice | 109 |
| Division 3—Additional powers of inspectors for exotic diseases | 110 |
| 115B Inspectors powers in this Division are in addition to general powers | 110 |
| 116 Search and entry and other powers | 110 |
| 117 Notice requesting assistance | 111 |
| 118 Power to obtain information | 113 |
| 119 Power of seizure and impoundment | 114 |
| 120 Seized livestock and property | 114 |
| 121 Powers of entry with warrant | 115 |

| <i>Section</i> | <i>Page</i> |
|--|-------------|
| Division 4—Additional powers with respect to bees | 116 |
| 122 Inspector may order hives to be cleaned | 116 |
| 123 Construction of hives | 117 |
| 124 Direction to attend at hives | 118 |
| 125 Abandoned hives | 118 |
| Division 5—Infringement notices | 119 |
| 126 Power to serve a notice | 119 |
| 127, 128 <i>Repealed</i> | 119 |
| 129 Penalties to be paid for offences under infringement notices | 119 |
| 130, 131 <i>Repealed</i> | 119 |
| Division 6—Provisions related to court proceedings | 120 |
| 132 Power to file charge-sheets under this Act | 120 |
| 132A Time for charging certain offences under this Act | 120 |
| 133 Service of documents | 120 |
| 134 Persons liable for offences | 121 |
| Division 7—General | 121 |
| 135 Suspicion of infection | 121 |
| 136 Evidence of certain matters | 122 |
| 137 Offences relating to enforcement | 122 |
| 138 Supreme Court—limitation of jurisdiction | 123 |
| 138A Supreme Court—limitation of jurisdiction | 124 |
| PART 9—REGULATIONS | 125 |
| 139 Regulations | 125 |
| PART 10—REPEALS, AMENDMENTS AND TRANSITIONAL PROVISIONS | 128 |
| 140–142 <i>Repealed</i> | 128 |
| 143 Transitional provisions | 128 |
| 144 Saving of records of cattle sales kept under Auction Sales Act 1958 | 128 |
| 145 Transitional provision— Primary Industries Legislation Amendment Act 2008 | 129 |
| 146 Transitional provision— Primary Industries Legislation Amendment Act 2008 | 129 |

| <i>Section</i> | <i>Page</i> |
|--|-------------|
| SCHEDULES | 130 |
| SCHEDULE 1—Membership and Procedure of Committees | 130 |
| 1 Definition | 130 |
| 2 Terms of appointment | 130 |
| 3 Remuneration | 131 |
| 4 Vacancies | 131 |
| 5 Application of Public Administration Act 2004 | 131 |
| 6 Validity of decisions | 132 |
| 7 Proceedings of Committee | 132 |
| SCHEDULE 2—<i>Repealed</i> | 132 |
| SCHEDULE 3—Transitional Provisions | 133 |
| 1 Former committee | 133 |
| 2 Former Trust Fund | 133 |
| 3 Licences, registrations and approvals | 133 |
| <hr style="border-top: 3px double #000;"/> | |
| ENDNOTES | 135 |
| 1. General Information | 135 |
| 2. Table of Amendments | 136 |
| 3. Explanatory Details | 140 |

Version No. 058
Livestock Disease Control Act 1994
No. 115 of 1994

Version incorporating amendments as at 1 July 2010

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1 Purposes

The main purposes of this Act are to provide for the prevention, monitoring and control of livestock diseases and to provide compensation for losses caused by certain livestock diseases.

S. 1
amended by
No. 57/2003
s. 3(1).

2 Commencement

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in subsection (2), other than section 92(2), does not come into operation within the period of 12 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

S. 2(3)
amended by
Nos 84/2008
ss 22, 31.

3 Definitions

S. 3
amended by
No. 46/1998
s. 7(Sch. 1)
(ILA s. 39B(1)).

S. 3(1)
amended by
No. 74/2000
s. 3(Sch. 1
item 73.1).

S. 3(1) def. of
approved agent inserted
by No.
83/1998
s. 3(a),
substituted by
No. 84/2008
s. 23(1).

S. 3(1) def. of
disease
amended by
No. 92/1995
s. 161(Sch. 2
item 3.1).

S. 3(1) def. of
exotic disease
amended by
Nos 92/1995
s. 161(Sch. 2
item 3.1),
83/1998
s. 3(b).

(1) In this Act—

appropriate Minister means the Minister
administering section 19 of the **Financial
Management Act 1994**;

approved agent means a livestock agent registered
as an approved agent under section 248A of
the **Duties Act 2000**;

cattle means any bull, cow, ox, steer, heifer, calf
or buffalo;

disease means—

- (a) any contagious or infectious disease, or
any condition to which any livestock is
subject, that the Governor in Council
declares from time to time to be a
disease; or
- (b) an exotic disease;

domestic livestock means any livestock in a
domesticated state or under the control of
humans, regardless of whether livestock of
its species are categorised at common law as
being of a tame or domestic nature;

exotic disease means—

- (a) foot and mouth disease or rabies; or
- (b) any other contagious or infectious
disease, or any condition to which any
livestock is subject, that the Governor
in Council declares to be an exotic
disease;

fittings means—

- (a) any facilities or materials used for housing, restraining or confining livestock; or
- (b) any hives, utensils, apparatus or implements for use in beekeeping or in handling, housing or storing honeycomb or beeswax; or
- (c) halters, brushes, clothes, buckets or other articles which have been brought into contact with any livestock; or
- (d) equipment or other articles—
 - (i) which are normally used in connection with livestock and which have been brought into contact with any livestock product; or
 - (ii) which are used in the processing or manufacture of livestock products and which have been brought into contact with any livestock product;

S. 3(1) def. of *fittings* amended by No. 7/2007 s. 3.

fodder means any food, drinking water or bedding used by or which has been brought into contact with any livestock;

goat means buck, doe, kid or wether;

S. 3(1) def. of *goat* inserted by No. 25/1997 s. 3(a).

GST has the same meaning as it has in the A New Tax System (Goods and Services Tax) Act 1999 of the Commonwealth except that it includes notional GST of the kind for which payments may be made under Part 3 of the **National Taxation Reform (Consequential**

S. 3(1) def. of **GST** inserted by No. 6/2000 s. 35(1).

Provisions) Act 2000 by a person that is a State entity within the meaning of that Act;

hive means any receptacle, or any component of a receptacle, which houses bees or which has housed bees;

inspector means an inspector of livestock appointed under this Act;

livestock means any non-human animal, and any fish or bird, whether wild or domesticated, egg intended for hatching or bee;

livestock agent means a person carrying on—

- (a) a business as—
 - (i) a stock and station agent; or
 - (ii) an abattoir operator; or
 - (iii) a feedlot operator; or
 - (iv) a cattle scale operator; or
 - (v) a calf dealer; or

- (b) a business dealing with the buying or selling of livestock or the carcasses of livestock;

livestock product includes—

- (a) the carcase or any portion of a carcase of any livestock;
- (b) the meat, blood, hide, skin, wool, hair, horns, feathers, antlers, feet or offal of livestock;
- (c) the fat, milk, whey, cream, butter, cheese, eggs or other food or foodstuffs derived from livestock;
- (d) honey, beeswax, honeycomb or any other product of bees;

S. 3(1) def. of *livestock agent* inserted by No. 84/2008 s. 23(2).

S. 3(1) def. of *livestock product* amended by Nos 73/1996 s. 31, 35/2009 s. 76.

- (e) semen, ova or embryos of livestock;
- (f) the secretions, excretions, manure and other wastes of livestock;

market value in relation to livestock means the value of the livestock calculated as upon a sale on the place where the livestock are when ordered to be destroyed;

owner includes—

- (a) every person other than a mortgagee not in possession having or claiming jointly or severally any right, title or interest to or in any livestock or land; and
- (b) the authorised agent of the owner; and
- (c) in the case of a body corporate or unincorporate, the chief executive officer or other controlling officer of the body; and
- (d) the superintendent or overseer of any livestock; and
- (e) the occupier, superintendent or overseer of any land upon which livestock are kept; and
- (f) all persons in charge of travelling livestock;

pig means any boar, sow, barrow or sucker;

quarantine area means any premises, aircraft, vehicle, vessel, land, road or place ordered to be quarantined under section 110;

residual value, in relation to any livestock referred to in Part 5 which is destroyed, means any money received by the Secretary on the sale of the carcase, wool, hide or offal of the livestock;

S. 3(1) def. of
residual value
inserted by
No. 25/1997
s. 3(b).

s. 4

S. 3(1) def. of *Secretary* amended by Nos 46/1998 s. 7(Sch. 1), 56/2003 s. 11(Sch. item 9.1).

Secretary means the Secretary to the Department of Primary Industries;

S. 3(1) def. of *sheep* inserted by No. 25/1997 s. 3(c).

sheep means any ewe, hoggett, lamb, ram or wether;

S. 3(2) inserted by No. 46/1998 s. 7(Sch. 1), amended by Nos 56/2003 s. 11(Sch. item 9.2), 108/2004 s. 117(1) (Sch. 3 item 116.1).

vehicle includes any aircraft or vessel.

- (2) If under the **Public Administration Act 2004** the name of the Department of Primary Industries is changed, a reference in the definition of *Secretary* in subsection (1) to that Department must, from the date when the name is changed, be treated as a reference to the Department by its new name.

4 Objectives

The objectives of this Act are to—

S. 4(a) amended by No. 57/2003 s. 3(2)(a).

- (a) protect public health by preventing, monitoring and controlling diseases transmissible from livestock to humans;

S. 4(b) amended by No. 57/2003 s. 3(2)(a).

- (b) to protect domestic and export markets for livestock and livestock products by preventing, monitoring and controlling livestock diseases;

S. 4(c) amended by No. 57/2003 s. 3(2)(b).

- (c) to provide for the preventing, monitoring and eradication of exotic livestock diseases;

S. 4(d) amended by No. 57/2003 s. 3(2)(c).

- (d) to provide compensation for certain losses caused by livestock diseases;

- (e) to facilitate the operation of livestock identification and tracking programs for disease and residue control and market access.

S. 4(e)
inserted by
No. 57/2003
s. 3(2)(d).

5 Binding of Crown

This Act binds the Crown, not only in right of the State of Victoria but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

6 Governor in Council may make Orders

- (1) The Governor in Council may make any Orders that are required for the purposes of this Act.
- (2) Without affecting the generality of subsection (1), the Governor in Council may make an Order—
 - (a) declaring any contagious or infectious disease or any condition to which any livestock is subject to be a disease for the purposes of this Act;
 - (b) declaring any contagious or infectious disease or condition to which any livestock is subject to be an exotic disease for the purposes of this Act;
 - (c) declaring the whole or any portion of Victoria to be an area for the control of diseases other than exotic diseases and specifying the requirements which are to operate in the area;
 - (d) prohibiting or restricting the entry into Victoria of any livestock, livestock product, fodder or fittings either generally or from such places, during such periods and under such circumstances as may appear to the Governor in Council to be necessary or expedient for the purpose of preventing the entry into Victoria of any disease.

- (3) An order made under subsection (2)(c) may—
- (a) prohibit a person from transporting, selling or handling livestock, livestock products or fittings within or from the declared area; and
 - (b) impose requirements to be complied with in relation to the testing, transportation, sale or handling of livestock, livestock products or fittings within the declared area.

S. 6(3A)
inserted by
No. 89/2001
s. 4.

- (3A) Without affecting subsection (1) or (2), the Governor in Council may make an Order exempting, or exempting to the extent specified in the Order, any livestock or class or species of livestock or any person or class of person that is specified in the Order from all or any of the provisions of this Act or the regulations.

S. 6(3B)
inserted by
No. 89/2001
s. 4.

- (3B) An Order made under section (3A)—
- (a) may specify the period during which the Order is to remain in force;
 - (b) may provide that its operation is unconditional or operates in circumstances or conditions specified in the Order or is subject to any terms and conditions that are specified in the Order.

S. 6(4)
amended by
No. 35/2009
s. 77.

- (4) A person must not contravene any prohibition or restriction of an Order made under subsection (2) or any requirement of an Order which is to operate in the declared area.

Penalty: 60 penalty units.

- (5) The Minister must ensure that an Order is published in the Government Gazette as soon as practicable after it is made.

**PART 2—PROVISIONS APPLYING TO DISEASES
GENERALLY**

Division 1—Responsibilities of owners and others

7 Notification of diseases

(1) If a person knows or has reason to suspect that a disease is present in livestock, livestock products or hives—

(a) owned by that person or in the possession, control or charge of that person; or

(b) on land owned or occupied by that person; or

S. 7(1)(b)
amended by
No. 35/2009
s. 78.

(c) dealt with by that person as a veterinary practitioner, inspector under the **Meat Industry Act 1993** or the Export Control Act 1982 of the Commonwealth, operator of a meat processing facility licensed under the **Meat Industry Act 1993** where a quality assurance program is in force, the owner or person in charge of premises registered as a diagnostic veterinary laboratory, knacker, stock agent or other person dealing with livestock, livestock products or hives by way of a profession, trade or business—

S. 7(1)(c)
amended by
No. 58/1997
s. 96(Sch.
item 6.1).

the person must notify an inspector in accordance with subsection (2) or (3).

Penalty: 240 penalty units or 24 months imprisonment or both, in the case of an exotic disease.

120 penalty units, in the case of any other disease.

- (2) In the case of an exotic disease, the person must notify an inspector without delay after becoming aware or suspecting that the disease is present by the quickest means of communication available.
- (3) In the case of a disease other than an exotic disease, the person must notify an inspector within the prescribed time and in the prescribed manner after becoming aware or suspecting that the disease is present.

S. 8
amended by
No. 35/2009
s. 79.

8 Isolation of livestock

A person who owns or is in charge of, or who possesses or has control of, livestock or a livestock product which the person knows or suspects is infected with a disease must keep that livestock or livestock product separate from livestock or livestock products not infected or not suspected to be infected with a disease.

Penalty: 120 penalty units or 12 months imprisonment or both, in the case of an exotic disease.

60 penalty units, in the case of any other disease.

S. 9
amended by
Nos 89/2001
s. 5(b)(c),
35/2009 s. 80.

9 Identification of livestock

A person must not—

S. 9(a)
amended by
No. 89/2001
s. 5(a).

- (a) dispatch cattle or prescribed livestock for sale at saleyards, for slaughter at an abattoir or for disposal at a knackery;

S. 9(b)
amended by
No. 89/2001
s. 5(a).

- (b) sell cattle or prescribed livestock by auction or otherwise;

S. 9(c)
amended by
No. 89/2001
s. 5(a).

- (c) transport cattle or prescribed livestock for sale at saleyards, for slaughter at an abattoir or for disposal at a knackery;

- (d) slaughter or dispose of cattle or prescribed livestock or process the carcasses of cattle or prescribed livestock at premises licensed under the **Meat Industry Act 1993**—

S. 9(d)
amended by
No. 89/2001
s. 5(a).

unless the cattle or the livestock or the carcass is branded, tagged or identified in accordance with section 9A and in the prescribed manner.

Penalty: 60 penalty units.

9A Permanent identification of livestock

S. 9A
inserted by
No. 73/1996
s. 32,
substituted by
No. 89/2001
s. 6.

- (1) The owner of any cattle or prescribed livestock or livestock of a prescribed species or class must ensure that the cattle or livestock is permanently tagged, marked, branded or identified—
- (a) in the circumstances set out in section 9(a), (b), (c) or (d); or
 - (b) in any other prescribed circumstances—
in the manner specified by the Secretary with a tag, mark, brand or other device that—
 - (c) is approved by the Secretary; and
 - (d) has an identification code allocated by the Secretary under section 9B comprising a combination of letters or numbers or both that identifies the property of birth of the cattle or livestock or the property where the cattle or livestock is kept; and
 - (e) has a number identifying the individual cattle or livestock; and
 - (f) is manufactured or sold by a person who is authorised to do so under section 9C.

S. 9A(1)
amended by
No. 35/2009
s. 80.

Penalty: 60 penalty units.

s. 9A

S. 9A(2)
amended by
No. 35/2009
s. 80.

- (2) If any cattle or prescribed livestock or livestock of a prescribed species or class has been tagged, marked, branded or identified in accordance with subsection (1), a person must not remove that tag, mark, brand or identification device from the cattle or livestock or deface, obliterate or alter the tag, mark, brand or identification device except—
- (a) in accordance with a direction of an inspector; or
 - (b) if the tag is removed from the cattle or livestock, or the mark, brand or identification is defaced, obliterated or altered, by a person working at an abattoir or knackery where the cattle or livestock is being slaughtered or disposed of; or
 - (c) in accordance with the regulations.

Penalty: 60 penalty units.

- (3) Without limiting subsection (1), the Secretary may require cattle or livestock or any species or class of livestock to be tagged, marked, branded or identified with a device that contains an electronic microchip that incorporates the identification code allocated by the Secretary under section 9B and the number that identifies the individual cattle or livestock.
- (4) The Secretary must ensure that a notice is published in the Government Gazette and in a newspaper circulating generally throughout Victoria specifying any requirements of the Secretary for the purposes of this section.

9B Property identification numbers

S. 9B
inserted by
No. 73/1996
s. 32.

- (1) A person who owns any cattle or prescribed livestock or any livestock of a prescribed species or class must apply to the Secretary for the allocation of a code that identifies the property of birth of the cattle or livestock or the place where the cattle or livestock is to be kept.

S. 9B(1)
substituted by
No. 89/2001
s. 7(1),
amended by
No. 35/2009
s. 80.

Penalty: 60 penalty units.

- (1A) The Secretary must determine at the time of allocating a code whether the code identifies the property of birth of the cattle or livestock or the place where the cattle or livestock is to be kept.

S. 9B(1A)
inserted by
No. 89/2001
s. 7(1).

- (2) An application under subsection (1) must be—
- (a) made in the prescribed manner; and
 - (b) accompanied by the fee (if any) fixed by the Minister.

- (3) The Secretary must issue a property identification code or number to a person who has applied in accordance with this section.

- (4) A property code or identification number remains in force for any period that is specified by the Secretary with respect to any property identification code or number issued by the Secretary.

S. 9B(4)
amended by
No. 89/2001
s. 7(2).

s. 9C

9C Requirements for manufacturers of tags and devices

S. 9C
inserted by
No. 83/1998
s. 4,
amended by
No. 89/2001
s. 8(2) (ILA
s. 39B(1)).

S. 9C(1)
amended by
Nos 89/2001
s. 8(1)(a)(b),
35/2009 s. 80.

- (1) A person must not make or sell or offer or expose for sale a tag or a marking, branding or identification device intended for identifying livestock for the purposes of section 9 or 9A or that is held out as being suitable for those purposes or that contains a code allocated by the Secretary under section 9B unless the person is authorised for the time being in writing by the Secretary to do so.

Penalty: 60 penalty units.

S. 9C(2)
inserted by
No. 89/2001
s. 8(2),
amended by
No. 35/2009
s. 80.

- (2) If a tag, mark, brand or other device intended for identifying livestock for the purposes of section 9 or 9A has been used to tag, mark or brand or otherwise identify individual livestock, a person must not use that tag, mark, brand or other device to identify other livestock unless the person is authorised for the time being in writing by the Secretary to do so.

Penalty: 60 penalty units.

S. 9C(3)
inserted by
No. 89/2001
s. 8(2).

- (3) Subsection (2) does not apply to a tag, mark, brand or a device that does not identify the individual livestock.

10 Entry of livestock etc.

- (1) A person must not bring or cause or permit or allow to be brought into Victoria any diseased livestock or diseased livestock product except in accordance with the prior authority of the Secretary or a licence issued by the Secretary.

S. 10(1)
amended by
No. 73/1996
s. 33,
substituted by
No. 89/2001
s. 9(1).

Penalty: 120 penalty units or 12 months imprisonment or both, in the case of an exotic disease.

60 penalty units in the case of any other disease.

- (2) A person must not bring or cause or permit or allow to be brought into Victoria any livestock, livestock product, fodder or fittings—
- (a) contrary to any order or any regulation about the introduction of livestock, livestock products, fodder or fittings into Victoria; and
 - (b) without the livestock, livestock product, fodder or fittings being inspected and certified in the manner prescribed.

Penalty: 60 penalty units.

- (3) A person must not, in Victoria, abandon, allow to stray, drive or cause to be driven any livestock, or move or cause to be moved any livestock products, fodder or fittings, introduced into Victoria—

- (a) contrary to any order or any regulation about the introduction of livestock, livestock products, fodder or fittings into Victoria; and
- (b) without the livestock, livestock product, fodder or fittings being inspected and certified in the manner prescribed.

Penalty: 60 penalty units.

S. 10(4)
inserted by
No. 89/2001
s. 9(2).

- (4) The Secretary may—
- (a) in writing authorise the bringing into Victoria of any diseased livestock or diseased livestock product that is specified in the authorisation;
 - (b) issue a licence authorising the bringing into Victoria of diseased livestock or diseased livestock products or a class of diseased livestock or diseased livestock product for the period specified in the licence not exceeding 3 years and may impose any conditions on the licence.

11 Quarantine areas

A person must not—

- (a) abandon livestock in or allow livestock to stray in or out of a quarantine area; or
- (b) without the written authority of an inspector—
 - (i) drive or cause to be driven any livestock into through or out of a quarantine area; or
 - (ii) remove from a quarantine area any livestock product, fodder or fittings or any soil, sand or any other material upon which diseased livestock have been kept or with which diseased livestock have had contact.

Penalty: 60 penalty units.

12 Offences

- (1) A person must not—
- (a) expose in a market or other public place where livestock are exposed for sale; or
 - (b) expose in any saleyard whether public or private; or
 - (c) place in any lair or place adjacent to or connected with any place where livestock are commonly placed before exposure for sale; or
 - (d) send for carriage or cause to be carried on any vehicle or vessel; or
 - (e) carry, lead or drive or cause to be carried, led or driven on or by the side of any highway or thoroughfare; or
 - (f) keep or cause to be kept—
 - (i) on any common; or
 - (ii) on the side of a highway or thoroughfare; or
 - (g) unless the stock is constantly followed and kept in sight, keep or cause to be kept on any unenclosed land or in any field or other place which is insufficiently fenced—

any diseased livestock.

Penalty: 120 penalty units or 12 months imprisonment or both, in the case of an exotic disease.

60 penalty units, in the case of any other disease.

- (2) If diseased livestock are found either travelling or in any public place or saleyard or on any land or other place on which livestock are offered for sale, the owner of the livestock is guilty of an offence

and liable to a penalty in the case of an exotic disease not exceeding 120 penalty units or 12 months imprisonment or both, or in the case of any other disease, not exceeding 60 penalty units.

- (3) The Secretary may exempt any person from compliance with all or any of the provisions of subsection (1) or (2).
- (4) An exemption must be in writing and may be granted on conditions.
- (5) A person who is granted an exemption must comply with the conditions (if any) of the exemption.

Penalty: 120 penalty units or 12 months imprisonment or both, in the case of an exotic disease.

60 penalty units, in the case of any other disease.

Division 2—Controls over livestock

13 Isolation of livestock

- (1) An inspector may, in writing, order the owner of—
 - (a) livestock suffering from or suspected of suffering from disease; or
 - (b) livestock which the inspector believes to have been in contact with diseased livestock—

to ensure that the livestock are kept in isolation from other livestock until the livestock have received proper treatment or been found by an inspector not to be suffering from disease.

-
- (2) An inspector may, in writing, order the person in charge or having the custody or control of livestock referred to in subsection (1) to ensure that the livestock are kept in isolation from other livestock for so long as they are in the person's charge, custody or control.
- (3) A person must not fail or refuse to comply with an order under this section.
- Penalty: 120 penalty units.

S. 13(3)
amended by
No. 35/2009
s. 81.

14 Destruction or disposal of livestock

- (1) If any livestock, livestock product, fodder or fittings is introduced into—
- (a) Victoria; or
 - (b) a quarantine area; or
 - (c) an area declared under section 6(2)—
contrary to any provision of this Act or an order or regulation made under this Act, the livestock, the livestock product, fodder or fittings may be destroyed or otherwise disposed of as directed by instrument by the Minister.
- (2) The Minister must cause a copy of a direction under subsection (1) to be given to the owner or person apparently in charge of the livestock, livestock product, fodder or fittings before the direction is carried out unless—
- (a) the owner or person apparently in charge of the livestock, livestock product, fodder or fittings cannot be found after reasonable search or inquiry; and

S. 14(1)(b)
amended by
No. 73/1996
s. 48(a).

- (b) the Minister considers that, in the circumstances, the direction must be carried out without prior notice to the owner or person apparently in charge.
- (3) If destruction or disposal is directed by the Minister under subsection (1), the owner of the livestock, livestock product, fodder or fittings destroyed or disposed of is not entitled to compensation except compensation expressly provided for in Part 5.
- (4) A direction of the Minister under this section is deemed to be a direction of an inspector for the purposes of Part 5.

15 Destruction or disposal of diseased livestock

S. 15(1)
amended by
No. 73/1996
s. 34(1).

- (1) If an inspector knows or reasonably suspects that—

- (a) any livestock or livestock product is diseased or infected with a disease; or
- (b) any livestock, livestock product, fodder, fitting or any other article has been in contact with diseased livestock or a diseased livestock product—

the inspector may—

S. 15(1)(c)
amended by
No. 7/2007
s. 4(2).

- (c) dispose of, or order to be disposed of, the livestock, livestock product, fodder, fitting or article; or

S. 15(1)(d)
amended by
No. 7/2007
s. 4(2).

- (d) destroy, or order to be destroyed, the livestock, livestock product, fodder, fitting or article.

S. 15(2)
amended by
Nos 73/1996
s. 34(2),
7/2007 s. 4(2).

- (2) The inspector must notify the owner or person apparently in charge of the livestock, livestock product, fodder, fitting or article of the inspector's intention to destroy or dispose of the livestock, livestock product, fodder, fitting or article.

- (3) If an inspector knows or reasonably suspects that livestock or a livestock product is infected with a disease or that any livestock, livestock product, fodder, fitting or any other article has been in contact with diseased livestock or a diseased livestock product and the owner of the livestock, livestock product, fodder, fitting or article cannot be located after reasonable inquiry and there is no person apparently in charge of the livestock, livestock product, fodder, fitting or article, the inspector may, with the approval of the Secretary, destroy or otherwise dispose of the livestock, livestock product, fodder, fitting or article.

S. 15(3)
substituted by
No. 7/2007
s. 4(3).

16 Testing for diseases

- (1) A person must not test, analyse or undertake any diagnostic examination of any sample or specimen taken from any livestock or livestock product for the purpose of determining whether it is infected with any disease except at premises which have been registered by the Secretary as a veterinary diagnostic laboratory for the testing, analysis or examination of samples or specimens for that disease.

Penalty: 60 penalty units.

- (2) A person must not submit any sample or specimen taken from any livestock or livestock product to another person for the purpose of having that other person test, analyse or undertake any diagnostic examination of the sample or specimen to determine whether it is infected with any disease unless the first-mentioned person reasonably believes that the other person will undertake the test, analysis or examination at premises registered as a veterinary diagnostic laboratory under subsection (1).

S. 16(2)
amended by
No. 35/2009
s. 82.

Penalty: 60 penalty units.

- (3) The owner or person in charge of premises registered as a veterinary diagnostic laboratory must ensure that—
- (a) any test, analysis or diagnostic examination of any sample or specimen referred to in subsection (1) is carried out in accordance with any prescribed standards; and
 - (b) the prescribed records are kept and submitted to the Secretary in the prescribed time and manner.

Penalty: 60 penalty units.

S. 16(4)
inserted by
No. 73/1996
s. 35.

- (4) The owner or person in charge of premises registered as a veterinary diagnostic laboratory must ensure that the facilities and operational practices of the laboratory comply with any prescribed standards of accreditation for veterinary diagnostic laboratories.

Penalty: 60 penalty units.

S. 16(5)
inserted by
No. 73/1996
s. 35,
amended by
No. 35/2009
s. 82(2).

- (5) The owner or person in charge of premises registered as a veterinary diagnostic laboratory must comply with any direction of the Secretary to take part in any program to test the proficiency of the facilities and operational practices used in the laboratory or to do so jointly or collaboratively with any other veterinary diagnostic laboratory.

Penalty: 60 penalty units.

Division 3—Agreements and contracts

17 Agreements with owners of livestock

- (1) The Secretary may enter into a written agreement with an owner of livestock which requires that owner to do anything which an inspector has power to direct the owner to do under this Act.

-
- (2) An owner of livestock is not liable to be prosecuted for an offence against this Act in respect of any matter provided for in an agreement under subsection (1) if the owner is acting in accordance with the agreement.
 - (3) An agreement may be amended by further agreement between the Secretary and the owner.
 - (4) An agreement may be revoked by the Secretary or the owner by giving notice in writing to the other party to the agreement.
 - (5) If the Secretary revokes an agreement, the owner may appeal to the Minister to review that revocation.

18 Contracts with veterinary practitioners

- (1) The Secretary may enter into a contract with a veterinary practitioner registered under the **Veterinary Practice Act 1997** who is not an inspector to subject livestock to any examination, biological test, vaccination, inoculation or treatment that is specified in the contract.
- (2) The veterinary practitioner is entitled to any fee set out in the contract.
- (3) The Secretary may terminate a contract after giving the notice provided in the contract or, if no notice is provided, after giving 2 week's notice.

S. 18(1)
amended by
Nos 58/1997
s. 96(Sch.
item 6.2),
74/2000
s. 3(Sch. 1
item 73.2).

S. 18(2)
amended by
No. 74/2000
s. 3(Sch. 1
item 73.2).

PART 3—EXOTIC DISEASES

Division 1—Preliminary

19 Application of this Part to land

- (1) Any provision of this Act that is exercised in relation to an exotic disease, to the extent that it confers any function or power that may be exercised in relation to land, applies to all land, whatever its status.
- (2) Without limiting subsection (1), any provision of this Act that is exercised in relation to an exotic disease applies to land, premises, areas and places—
 - (a) that are the property of the Crown, or that are dedicated or reserved for any purpose, or protected or otherwise dealt with under any other Act; or
 - (b) the care, control or supervision of which is vested in any statutory authority or other person.
- (3) It is not necessary, in order for any land, premises, area or place to be declared to be an infected place, restricted area or control area under this Part or for the validity of any order or the exercise of any power to enter premises or of any other power conferred by this Act and exercised in relation to an exotic disease, to obtain the consent of any person or body or to meet any requirements other than the requirements of this Act.
- (4) If land is owned, jointly or as tenants in common or otherwise, by 2 or more persons an order, notice or other document relating to an exotic disease which is under this Act served on one of

them as owner of the land is deemed to have been served on them all.

20 Application of this Part to livestock

- (1) Any provision of this Act that is exercised in relation to an exotic disease, to the extent that it confers any function or power that may be exercised in relation to livestock, applies to all livestock, whatever their status and whether or not the property of the Crown or any other person.
- (2) Without limiting subsection (1), any provision of this Act that is exercised in relation to an exotic disease applies to livestock—
 - (a) that are protected or otherwise dealt with under any Act; or
 - (b) the care, control, management or supervision of which is vested by any Act in the Crown or any statutory authority or other person.
- (3) It is not necessary for the validity of any order under this Part for the destruction, confinement or other control or treatment of, or otherwise affecting, any livestock, or for the exercise of any other power conferred by this Act in relation to exotic diseases of livestock, to obtain the consent of any person or body or to meet any requirements other than the requirements of this Act.
- (4) Nothing in this Part authorises wanton cruelty to any livestock.

Division 2—Declared areas

21 Declaration of infected place

If the Secretary reasonably suspects any land premises, place or area within Victoria to be infected with an exotic disease, the Secretary may, by order in writing declare it to be an infected place.

22 Declaration of infected vehicle

If the Secretary reasonably suspects any vehicle to be infected with an exotic disease, the Secretary may, by order in writing declare it to be an infected vehicle.

23 Notice of order declaring area or vehicle infected

- (1) The Secretary must ensure that notice of an order declaring an area or vehicle to be infected is published in the Government Gazette and, in the case of an area, in a newspaper circulating generally in the vicinity of the area.
- (2) The Secretary must ensure that written notice of an order declaring—
 - (a) any land, premises, place or area to be an infected place is given to the owner or person in charge or in apparent control of the land, premises, place or area to which the notice relates; and
 - (b) a vehicle to be an infected vehicle is given to the owner or person in charge or in apparent control of the vehicle to which the order relates.

24 Permit for entry or exit

- (1) A person must not—
 - (a) enter or leave any land, premises, place or area declared to be an infected place or a vehicle declared to be an infected vehicle; or
 - (b) cause, permit or assist any other person to enter or leave any such land, premises, place, area or vehicle; or

-
- (c) bring, move, take or allow any person to bring move or take any livestock, livestock product, fodder or fitting into, within or out of any such land, premises, place area or vehicle; or
 - (d) cause, permit or assist any vehicle to enter or leave any land, premises, place or area declared to be an infected place—

unless the person is authorised to do so under a permit issued by an inspector and complies with any conditions set out in a permit.

Penalty: 360 penalty units or 36 months imprisonment or both.

- (2) An inspector may issue a permit for the purposes of this section—
 - (a) subject to any conditions; and
 - (b) to be effective for any period of time—that the inspector specifies in the permit.
- (3) Without limiting subsection (2), an inspector may issue a permit subject to the condition that the holder of the permit, or the livestock, livestock product, fodder, fitting or vehicle to which the permit relates—
 - (a) must first be effectively disinfected to the satisfaction of the inspector and in a manner specified by the inspector before leaving or being taken out of the infected place or infected vehicle; and
 - (b) must not go or be brought to any other land, premises or place where any specified livestock, livestock product, fodder or fittings are located.
- (4) An inspector may revoke or vary a permit at any time by notice in writing to the holder.

- (5) If a permit given under this section is revoked the holder must, upon request by an inspector immediately deliver the revoked permit to the inspector.

25 Entry and exit points

- (1) Any movement of a vehicle into or out of an infected place, and any movement of persons, livestock, livestock products, fodder or fittings into or out of an infected place or infected vehicle must be made only through a point or points specified in a notice issued by an inspector to the person in charge or in apparent control of the place or vehicle.
- (2) The inspector must cause—
- (a) the notice to be published in a newspaper circulating in the vicinity of the infected place; and
 - (b) a legible copy of the notice to be displayed at the points specified in the notice in such a manner that it can easily be read.
- (3) A person who knows or has reason to believe any land, premises, place or area to be an infected place or that a vehicle is an infected vehicle must not go or move any other person, livestock, livestock product, fodder, fitting or vehicle in or out of it except in accordance with a notice issued under subsection (1).

Penalty: 360 penalty units or 36 months imprisonment or both.

- (4) A person who goes, or moves any other person, livestock, livestock product, fodder, fitting or vehicle, in or out of any land, premises, place or area that is an infected place or in or out of a vehicle that is an infected vehicle, where that person is not liable for an offence under subsection (3) in respect of doing so, is guilty of

S. 25(2)
substituted by
No. 35/2009
s. 83(1).

S. 25(4)
inserted by
No. 35/2009
s. 83(2).

an offence and liable to a penalty not exceeding 60 penalty units.

- (5) Subsection (4) does not apply if the person is acting in accordance with a notice issued under subsection (1).

S. 25(5)
inserted by
No. 35/2009
s. 83(2).

26 Declaration of restricted area

- (1) If the Minister believes or suspects that there is a possibility that an exotic disease is present on or in or may be introduced into any land, premises, place or area, the Minister may by order—
- (a) declare the land, premises, place or area to be a restricted area; and
 - (b) specify any prohibitions, restrictions and requirements which are to operate in the restricted area.
- (2) The order must identify the classes or descriptions of livestock or livestock products, fodder, fittings or vehicles that are affected by it.
- (3) The Minister must ensure that notice of an order declaring a restricted area is published in the Government Gazette and in a newspaper circulating generally in the vicinity of the area.

27 Permits for activity in restricted area

- (1) A person who knows, or has reason to believe, that any land, premises, place or area has been declared to be a restricted area must not—
- (a) cause or permit the movement of any livestock, livestock product, fodder, fittings or vehicle to which the declaration of the restricted area applies into, within or from that area; or
 - (b) cause or permit the movement of any vehicle carrying, or of a type normally used for the carrying of, any livestock, livestock product,

fodder or fittings to which the declaration of the restricted area applies into, within or from that area; or

- (c) contravene any prohibition, restriction or requirement specified in the order which declared the restricted area—

unless the person is authorised to do so under a permit issued by an inspector and complies with any conditions set out in the permit.

Penalty: 360 penalty units or 36 months imprisonment or both.

(1A) A person who—

- (a) causes or permits the movement of any livestock, livestock product, fodder, fittings or vehicle specified in an order under section 26 into, within or from, any land, premises, place or area declared to be a restricted area under that order; or
- (b) causes or permits the movement of any vehicle carrying, or of a type normally used for the carrying of, any livestock, livestock product, fodder or fittings specified in an order under section 26 into, within or from, any land, premises, place or area declared to be a restricted area under that order; or
- (c) contravenes any prohibition, restriction or requirement specified in an order under section 26 declaring any land, premises, place or area to be a restricted area—

where that person is not liable for an offence under subsection (1) in respect of doing so, is guilty of an offence and liable to a penalty not exceeding 60 penalty units.

S. 27(1A)
inserted by
No. 35/2009
s. 84.

-
- (1B) Subsection (1A) does not apply if the person is acting under a permit issued by an inspector and the person complies with any conditions set out in the permit.
- (2) An inspector may issue a permit for the purposes of this section—
- (a) subject to any conditions; and
 - (b) to be effective for any period of time—
- that the inspector specifies in the permit.
- (3) Without limiting subsection (2), an inspector may issue a permit subject to the condition that the holder of the permit, or the livestock, livestock product, fitting or vehicle to which the permit relates is effectively disinfected to the satisfaction of the inspector and in a manner specified by the inspector, before leaving or being taken out of the restricted area.
- (4) An inspector may revoke or vary a permit at any time by notice in writing to the holder.
- (5) If a permit given under this section is revoked the holder must, upon request by an inspector, immediately deliver the revoked permit to the inspector.

S. 27(1B)
inserted by
No. 35/2009
s. 84.

28 Entry to and exit from restricted areas

- (1) The Secretary may, by notice in writing published in a newspaper circulating in the vicinity of the restricted area, prohibit or impose restrictions on, movement into or from a restricted area of any livestock, livestock product, fodder, fittings or vehicle.
- (2) Any movement of livestock, livestock products, fodder, fittings or vehicles of a class or description specified in the order declaring the restricted area into or out of a restricted area must be made only

through a point or points specified in a notice under subsection (1).

- (3) A person who knows or has reason to believe that any land, premises place or area has been declared a restricted area must not move any livestock, livestock product, fodder, fittings or vehicles—
- (a) which is specified, or of a class or description specified, in the order declaring the restricted area; and
 - (b) to which a notice under subsection (1) applies—

into or out of the restricted area in contravention of the notice.

Penalty: 360 penalty units or 36 months imprisonment or both.

- (4) A person who moves any livestock, livestock product, fodder, fitting or vehicle into or out of a restricted area in contravention of a notice under subsection (1) where—
- (a) the livestock, livestock product, fodder, fitting or vehicle is specified, or is of a class or description specified, in the order declaring the restricted area; and
 - (b) the notice applies to that livestock, livestock product, fodder, fitting or vehicle; and
 - (c) the person is not liable for an offence under subsection (3) in respect of the movement of the livestock, livestock product, fodder, fitting or vehicle—

is guilty of an offence and liable to a penalty not exceeding 60 penalty units.

S. 28(4)
inserted by
No. 35/2009
s. 85.

29 Control area

- (1) If the Minister believes or suspects that it is reasonably necessary for the purpose of preventing, controlling or eradicating an exotic disease, the Minister may by order—
 - (a) declare any land, premises, place or area to be a control area; and
 - (b) specify any prohibitions, restrictions and requirements which are to operate in the control area.
- (2) The declaration must identify the classes or descriptions of livestock, livestock products, fodder or fittings that are affected by it.
- (3) Without limiting the powers of the Minister under subsection (1)(b), an order declaring a control area may prohibit, regulate or control—
 - (a) the holding of markets, fairs, sales, shows, parades, race meetings or other gatherings or competitions involving livestock or livestock products;
 - (b) the presence or exposure of livestock or livestock products of a class or description specified in the order at any place where livestock or livestock products are exposed for sale;
 - (c) the presence or exposure of livestock of a class or description specified in the order at any place where livestock are exposed for exhibition, parade, race meetings or any form of recreation or competition;
 - (d) the sale, presence or exposure of livestock or livestock products of a class or description specified in the order at places where livestock or livestock products are

S. 29(3)(b)
amended by
No. 73/1996
s. 48(b).

commonly processed for human or animal consumption;

(e) the movement of livestock or livestock products of a class or description specified in the order into out of or within the area declared to be a control area.

(4) The Minister must ensure that notice of an order declaring a control area is published in the Government Gazette and in a newspaper circulating generally in the vicinity of the area.

(5) An order declaring a control area has effect for the period not exceeding 12 months that the Minister specifies in the Order and may be continued for any further period or periods not exceeding 12 months that the Minister determines by notice published in the Government Gazette.

S. 29(5)
substituted by
No. 89/2001
s. 10.

30 Permit for activity in a control area

(1) A person who knows, or has reason to believe, that any land, premises, place or area has been declared to be a control area must not contravene any prohibition, restriction or requirement specified in the order which declared the control area unless the person is authorised to do so under a permit issued by an inspector and complies with any conditions set out in the permit.

Penalty: 240 penalty units or 24 months imprisonment or both.

(1A) A person who contravenes any prohibition, restriction or requirement specified in an order declaring any land, premises, place or area to be a control area, where that person is not liable for an offence under subsection (1) in respect of that contravention, is guilty of an offence and liable to a penalty not exceeding 60 penalty units.

S. 30(1A)
inserted by
No. 35/2009
s. 86.

-
- (1B) Subsection (1A) does not apply if the person is acting under a permit issued by an inspector and the person complies with any conditions set out in the permit.
- (2) An inspector may issue a permit for the purposes of this section—
- (a) subject to any conditions; and
 - (b) to be effective for any period of time—
- that the inspector specifies in the permit.
- (3) An inspector may revoke or vary a permit at any time by notice in writing to the holder.
- (4) If a permit given under this section is revoked, the holder must, upon request by an inspector, immediately deliver the revoked permit to the inspector.

S. 30(1B)
inserted by
No. 35/2009
s. 86.

31 Further powers under Orders declaring restricted or control areas

- (1) Without limiting the powers of the Minister under sections 26(1)(b) and 29(1)(b), an order declaring a restricted area or a control area may—
- (a) restrict the purposes for which livestock, livestock products or fodder of a class or description specified in the order may be used;
 - (b) require livestock, livestock products or fodder to be destroyed or disposed of in a manner specified in the order;
 - (c) require livestock, livestock products or fodder of a class or description specified in the order to be subject to treatment specified in the order or any other action specified in the order for the purpose of freeing them from disease;

-
- (d) require livestock, livestock products, land, buildings, vehicles, fodder or fittings of a class or description specified in the order to be cleansed, disinfected or otherwise treated in the manner specified in the order;
 - (e) control the keeping, transport or management of livestock, livestock products, fittings and fodder of a class or description specified in the order;
 - (f) require livestock, livestock products, fodder, fittings and buildings to be identified in a manner specified in the order.
- (2) An order may authorise an inspector to issue any directions to any person to do any of the things specified in subsection (1).

Division 3—Importation orders

32 Border security

- (1) If the Minister reasonably suspects that any land, premises, place or area outside Victoria is infected with an exotic disease, the Minister may, by order, prohibit absolutely or impose conditions upon the entry or importation into Victoria of—
- (a) livestock, livestock products, fodder or fittings identified by the order; and
 - (b) vehicles of a type usually used for the transportation of livestock, livestock products, fodder or fittings of a kind to which the order refers or of a type, or from a locality, identified by the order.

-
- (2) Without limiting subsection (1), an order—
- (a) may prohibit or restrict the entry or importation into Victoria of any description of livestock, livestock product, fodder, fittings or vehicles except at places specified in the order; and
 - (b) may specify tests or treatment to be applied to any description of livestock, livestock products, fodder, fittings and vehicles.

33 Contravention of importation order

S. 33
amended by
No. 35/2009
s. 87 (ILA
s. 39B(1)).

- (1) A person who causes, permits or assists any livestock, livestock product, fodder, fitting or vehicle to enter or be imported into Victoria, knowing that in doing so the person contravenes an importation order under section 32 is guilty of an offence and liable to a penalty not exceeding 240 penalty units or imprisonment of 24 months or both.
- (2) A person who causes, permits or assists any livestock, livestock product, fodder, fitting or vehicle to enter or be imported into Victoria, where—
 - (a) that entry or importation contravenes an importation order under section 32; and
 - (b) that person is not liable for an offence under subsection (1) in respect of that contravention—is guilty of an offence and liable to a penalty not exceeding 60 penalty units.

S. 33(2)
inserted by
No. 35/2009
s. 87.

34 Notification of importation order

The Minister must ensure that notice of an importation order under section 32 is published in the Government Gazette as soon as practicable after the making of the order.

S. 35(1)
amended by
No. 35/2009
s. 88.

S. 35(2)
amended by
No. 35/2009
s. 88.

35 Duration of importation order

- (1) An importation order under section 32 remains in force for a period of 60 days or any shorter period that is specified in the order, unless sooner revoked.
- (2) The Minister may from time to time, by notice published in the Government Gazette, extend the duration of an order for any period or periods not exceeding 60 days.

Division 4—Destruction orders

36 Destruction of buildings and vehicles

The Minister may, by order in writing, require the destruction of any premises (other than a dwelling) or vehicle which the Minister reasonably suspects to be infected with an exotic disease and which cannot be effectively disinfected.

37 Notice of destruction order

A copy of a destruction order must be given before execution of the order to the owner or person in charge of the affected premises or vehicle unless—

- (a) there appears to be no one immediately in control of it and the owner or person in charge cannot, after such search and inquiry as is reasonable in the circumstances, be located; and
- (b) the Minister considers that, in the circumstances, the order must be carried out without prior notice to the owner or person in charge.

38 Enforcement of destruction order

- (1) A destruction order under section 36 may authorise an inspector to destroy or cause the destruction of any premises or vehicle that is specified in the order.
- (2) The owner or person in charge of any premises or vehicle which is the subject of a destruction order must, on request by an inspector, give any assistance the inspector may reasonably require in carrying out the order.
- (3) A person who fails or refuses to assist an inspector in accordance with subsection (2) is only guilty of an offence if it is proved that, at the material time, the person was informed by the inspector that failure or refusal to comply with the request constituted an offence.

Division 5—Exotic disease agents

39 Possession or administration of exotic disease agents

- (1) A person must not—
 - (a) possess an exotic disease agent; or
 - (b) administer an exotic disease agent, or cause or permit the administration of an exotic disease agent, directly or indirectly, to any livestock; or
 - (c) threaten to administer an exotic disease agent, directly or indirectly to any livestock.

Penalty: 900 penalty units or 90 months imprisonment or both.

- (2) Subsection (1) does not apply to a person who has the authority of the Secretary to be in possession of an exotic disease agent and who is acting in accordance with the regulations.

- (3) In this section, *exotic disease agent* means any pathogen, agent or organism that is capable of causing an exotic disease in livestock.

Division 6—General

40 Other powers and liabilities not affected

Nothing in this Part in any way limits or affects—

- (a) the powers of an inspector under this Act; or
 - (b) the liability of a person for an offence under any other provision of this Act.
-

PART 4—PROVISIONS FOR PARTICULAR LIVESTOCK

Division 1—Pigs

41 Swill feeding of pigs

(1) A person must not—

S. 41(1)
amended by
No. 35/2009
s. 89.

(a) store any material originating from a placental mammal or that has been in direct contact with material originating from a placental mammal at premises at which pigs are kept;

S. 41(1)(a)
amended by
No. 57/2003
s. 4(a).

(b) collect any material originating from a placental mammal or that has been in direct contact with material originating from a placental mammal for use for feeding to any pig;

S. 41(1)(b)
amended by
No. 57/2003
s. 4(a).

(c) feed any material originating from a placental mammal or that has been in direct contact with material originating from a placental mammal to any pig; or

S. 41(1)(c)
amended by
No. 57/2003
s. 4(a)(b).

(d) supply to another person material that originates from a placental mammal or that has been in direct contact with material originating from a placental mammal that the person supplying the material knows is for use for feeding to any pig.

S. 41(1)(d)
inserted by
No. 57/2003
s. 4(c).

Penalty: 120 penalty units.

(2) Subsection (1) does not apply to any material which is—

(a) the flesh, bones, blood or offal of mammals slaughtered at an abattoir or a knackery licensed under the **Meat Industry Act 1993**

which is fed to pigs at that abattoir or knackery with the approval of the Secretary;

- (b) any material containing flesh, bones, blood or offal of mammal carcasses which has been treated by a process approved in writing by the Secretary;
- (c) the carcase of a mammal which has been slaughtered at premises for the purpose of feeding it to pigs at the same premises if the premises have been approved in writing by the Secretary;
- (d) milk;
- (e) a milk product or milk by-product from a dairy manufacturing business licensed under the **Dairy Act 2000**.

S. 41(2)(d)
substituted by
No. 7/2007
s. 5.

S. 41(2)(e)
inserted by
No. 7/2007
s. 5.

Division 2—Sewage farm cattle and pigs

42 Definition and application

- (1) In this Division, *sewerage authority* means the Melbourne Water Corporation or an authority under the **Water Act 1989** that has a sewerage district under that Act.
- (2) Nothing in this Division applies to night-soil or sewage which has been purified to the standard approved by the Minister by Order published in the Government Gazette.

43 No cattle or pigs on sewage land

- (1) The owner or occupier of any land used for depositing or spreading night-soil or sewage must not permit, suffer or allow any cattle or pigs to graze on or be upon that land.

Penalty: 120 penalty units.

S. 43(1)
amended by
No. 35/2009
s. 89.

- (2) A person must not permit, suffer or allow any cattle or pig to be fed with any pasture or crops grown on land on which sewage or night-soil has been deposited or spread except in accordance with the approval of the Secretary and the conditions (if any) attached to that approval.

S. 43(2)
amended by
Nos 89/2001
s. 11(1),
35/2009 s. 89.

Penalty: 120 penalty units.

- (3) Subsections (1) and (2) do not apply to a sewerage authority which permits, suffers or allows any cattle to graze on land, or to be fed with pasture or crops grown on land, owned or occupied by the sewerage authority.
- (4) Any cattle or pig, may for the purposes of this Act, be reasonably suspected of being infected with a disease if the cattle or pig—
- (a) has been allowed to graze on or be on land on which sewage or night-soil has been deposited or spread; or
 - (b) has been fed with any pasture or crops grown on that land—

contrary to subsection (1) or (2).

- (5) The Secretary may grant an approval for the purposes of subsection (2) if satisfied that the feeding of the crops or pasture is unlikely to lead to the transmission of disease from the livestock to humans and may impose any conditions on that approval.

S. 43(5)
inserted by
No. 89/2001
s. 11(2).

- (6) The Secretary must have regard to the following matters before granting an approval under subsection (2)—

S. 43(6)
inserted by
No. 89/2001
s. 11(2).

- (a) the purpose or intended use of the cattle or pigs to be fed the pasture or crops; and

- (b) whether the cattle or pigs will be tagged, marked, branded or identified in accordance with this Act before being moved from the place where they were fed the pasture or crops; and
- (c) the measures taken, or to be taken, to limit the movement of the cattle or pigs; and
- (d) the measures taken, or to be taken, to limit the exposure of the cattle or pigs to infection by zoonotic organisms.

44 Sewerage authority may graze cattle

- (1) A sewerage authority which permits, suffers or allows any cattle which are grazing on or are upon any land used by the sewerage authority for depositing or spreading night-soil or sewage must not allow those cattle to be removed from that land unless the cattle—
 - (a) have been immunised in the manner approved by the Secretary against the disease *cysticercus bovis*; or
 - (b) are immediately after being removed, destroyed or disposed of otherwise than for human consumption; or
 - (c) are removed for immediate slaughter at an abattoir licensed under the **Meat Industry Act 1993** in accordance with the approval of the Secretary and the conditions (if any) attached to that approval; or
 - (d) have remained on the land or other land used by the sewerage authority for depositing or spreading night-soil or sewage from birth until attaining the age of 18 months; or
 - (e) are removed to land owned by the sewerage authority or another sewerage authority.

Penalty: 120 penalty units.

S. 44(1)(c)
amended by
No. 89/2001
s. 12(1).

- (2) A sewerage authority referred to in subsection (1) must notify the Secretary in writing of any land under the control of that authority where night-soil or sewage is deposited or spread and cattle are grazed or kept upon the land.
- (3) The Secretary may grant an approval for the purposes of subsection (1)(c) if satisfied that the removal of the cattle for immediate slaughter at an abattoir is unlikely to lead to the transmission of disease from the cattle to humans and may impose any conditions on that approval.
- (4) The Secretary must have regard to the following matters before granting an approval under subsection (3)—
- (a) whether the cattle have been or will be tagged, marked, branded or identified in accordance with this Act before being moved from the place where they were grazing; and
 - (b) the measures taken, or to be taken, to limit the cattle's exposure to infection by zoonotic organisms.

S. 44(3)
inserted by
No. 89/2001
s. 12(2).

S. 44(4)
inserted by
No. 89/2001
s. 12(2).

Division 3—Dairying animals

45 Prohibition of use of cow, goat, sheep or buffalo for dairying

- (1) If an inspector is of the opinion that any dairy food produced or prepared for sale from any cow, goat, sheep or buffalo would be deleterious to the health of human beings or unfit for human consumption, the inspector may—
- (a) by a written notice given to the dairy farmer upon whose dairy farm the cow, goat, sheep or buffalo is kept prohibit the use of the cow, goat, sheep or buffalo for the production or preparation of any dairy food for sale for a period not exceeding 14 days; and

S. 45(1)
amended by
No. 37/2000
s. 70(a)(b).

S. 45(1)(a)
amended by
No. 37/2000
s. 70(a)(b).

Livestock Disease Control Act 1994
No. 115 of 1994

s. 45

S. 45(1)(b)
amended by
No. 37/2000
s. 70(b).

(b) brand the cow, goat, sheep or buffalo or cause the cow, goat, sheep or buffalo to be branded with a brand which is not of a permanent character in the prescribed manner.

S. 45(2)
amended by
No. 37/2000
s. 70(b).

(2) An inspector may after examining a cow, goat, sheep or buffalo the use of which is prohibited under subsection (1)—

S. 45(2)(a)
amended by
No. 37/2000
s. 70(a)(b).

(a) by a written notice given to the dairy farmer upon whose dairy farm the cow, goat, sheep or buffalo is kept prohibit permanently the use of the cow, goat, sheep or buffalo for the production or preparation of any dairy food for sale; and

S. 45(2)(b)
amended by
No. 37/2000
s. 70(b).

(b) brand the cow, goat, sheep or buffalo or cause the cow, goat, sheep or buffalo to be branded with a brand which is of a permanent character in the prescribed manner.

S. 45(3)
amended by
No. 37/2000
s. 70(a)(b).

(3) A dairy farmer who is given a written notice under subsection (1) or (2) must prevent the use of the cow, goat, sheep or buffalo to which the notice relates for the production or preparation of any dairy food for sale whilst the notice remains in force.

Penalty: 60 penalty units.

S. 45(4)
amended by
No. 37/2000
s. 70(a)(b).

(4) A person must not use or permit the use of a cow, goat, sheep or buffalo to which a written notice under subsection (1) or (2) relates for the production or preparation of any dairy food for sale whilst the notice remains in force.

Penalty: 60 penalty units.

* * * * *

Pt 4 Div. 4
(Heading and
ss 46, 47)
amended by
No. 58/1997
s. 96(Sch.
item 6.3),
repealed by
No. 35/2009
s. 90.

Division 5—Bees

48 Registration of beekeepers

- (1) A person must not keep bees, whether or not that person is the owner of the bees, unless the person is registered as a beekeeper under this Act.

S. 48(1)
amended by
Nos 73/1996
s. 36(1),
35/2009 s. 91.

Penalty: 60 penalty units.

- (2) A beekeeper is entitled to registration and renewal of registration, if he or she—
- (a) applies for registration or renewal of registration in accordance with this Act; and
 - (b) pays the fee fixed by the Minister for registration or renewal of registration.
- (3) The Secretary must allot a brand to each person registered as a beekeeper.
- (4) The Secretary must issue to each person registered as a beekeeper a certificate of registration or renewal of registration, showing the beekeeper's registered brand.
- (5) A person who is registered as a beekeeper under a corresponding provision of an Act of another State or Territory is not required to be registered as a beekeeper under this Act for any period not exceeding 3 months during which the person keeps bees in Victoria.

S. 48(5)
inserted by
No. 73/1996
s. 36(2).

49 Annual fees

A registered beekeeper must—

- (a) not later than 7 days after the date of issue of the certificate of registration or of renewal of registration; and
- (b) not later than 7 days after each anniversary of that date—

pay to the Secretary the annual fee for registered beekeepers.

50 Hives to be marked with registered brand

- (1) A registered beekeeper must not have in his or her possession or under his or her control a hive which is not marked or branded with his or her registered brand in the prescribed manner.

Penalty: 60 penalty units.

- (2) Nothing in subsection (1) applies to a registered beekeeper who has in his or her possession or control a hive which is not owned by the beekeeper and which is marked or branded with the registered brand of another registered beekeeper if the beekeeper has the hive in his or her possession or control with the authority of that other registered beekeeper.

51 Disposal and acquisition of hives

- (1) A beekeeper must, within 7 days after disposing of any hive, give to the Secretary notice in writing in the prescribed form of the disposal.

Penalty: 10 penalty units.

- (2) A person who acquires any beehive must, within 28 days of acquiring the hive, cancel the registered brand of the previous owner and substitute his or her own brand.

Penalty: 10 penalty units.

S. 51(1)
amended by
No. 35/2009
s. 92.

S. 51(2)
amended by
No. 35/2009
s. 92.

52 Exposure of bees to infected articles etc.

- (1) A person must not expose—
- (a) any hive infected with disease; or
 - (b) any beeswax, fittings or other articles which are infected with disease or have been taken from or used in conjunction with any hive infected with disease—

in any manner that will allow access by bees to the hive or articles unless the hive or articles have been disinfected.

Penalty: 60 penalty units.

- (2) A person must not expose or extract any honey which is infected with disease in any manner which will allow access to the honey by bees.

Penalty: 60 penalty units.

53 Access of bees to honey etc.

A beekeeper must take all reasonable precautions to ensure that any honey, honeycomb, fittings or other article on or in which honey is deposited and which is in the person's possession or under the person's control does not remain exposed in such a manner or under such conditions that would provide bees with access to the honey.

Penalty: 60 penalty units.

Division 6—Artificially bred livestock

54 Application of Division

This Division only applies to livestock or livestock of a class of livestock declared by order of the Governor in Council to be livestock or livestock of a class to which this Division applies.

S. 54
substituted by
No. 35/2009
s. 93.

55 Sale of semen prohibited except from approved sires

- (1) A person must not sell semen from any sire unless, at the time the semen was collected, the sire was a sire approved by the Secretary.
Penalty: 60 penalty units.
- (2) The Secretary must approve a sire for collection of semen for sale if the Secretary is satisfied that the sire is free from disease.
- (3) If the Secretary is satisfied that a sire is no longer suitable to be approved as a sire, the Secretary may cancel the approval of that sire.
- (4) A person who sells any semen must keep the prescribed records in the prescribed manner.
Penalty: 10 penalty units.
- (5) If a person is aggrieved by a decision of the Secretary not to approve a sire or to cancel the approval of a sire, the person may within 14 days of being notified of the decision appeal to the Minister.

56 Sale of diseased semen prohibited

A person must not sell any semen if the person knows or suspects or has reasonable cause to know the semen is diseased.

Penalty: 120 penalty units.

57 Premises for collection of semen to be licensed

A person must not use any premises for the collection of any semen for sale unless the person holds a licence issued by the Secretary in respect of those premises.

Penalty: 60 penalty units.

58 Training courses about artificial breeding

A person must not conduct a course of training for persons to use semen for the purposes of artificial breeding unless the course and the person or body delivering the course have been approved by the Secretary.

Penalty: 60 penalty units.

PART 5—COMPENSATION

Division 1—Exotic diseases compensation

59 Exotic Diseases Fund

- (1) There is to be established in the Public Account, as part of the Trust Fund an account to be known as the Exotic Diseases Fund.
- (2) There shall be paid to the Exotic Diseases Fund—
 - (a) all money payable to Victoria by the Commonwealth or another State or Territory under any arrangement made between Victoria, the Commonwealth and another State or Territory for the prevention, control and eradication of any exotic disease;
 - (b) the proceeds of the sale of stores and equipment obtained for the purpose of dealing with exotic diseases;
 - (c) all penalties which are recovered for contraventions of Part 3;
 - (d) all money available for the purposes of this Part;
 - (e) all interest on money in the Fund.
- (3) Money in the Fund may be invested in any manner in which money may be invested under the **Trustee Act 1958** or any other manner that the appropriate Minister approves.

S. 59(3)
amended by
No. 104/1995
s. 6(Sch. 1
item 15(a)).

60 Payment out of Fund

Amounts may be paid out of the Fund for the payment of—

- (a) all expenses directly connected with the control and eradication of any outbreak of exotic disease, except the remuneration for normal hours of work payable to employees who are or would be employed in the public service under Part 3 of the **Public Administration Act 2004** irrespective of the outbreak; and
- (b) compensation payable under this Division and all costs and expenses incidental to determining the compensation payable.

S. 60(a)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 116.1),
35/2009 s. 94.

61 Compensatable exotic diseases

- (1) Compensation is only payable under this Division in respect of a disease which is declared by Order of the Governor in Council to be a compensatable exotic disease;
- (2) A reference in this Division to an exotic disease is a reference to an exotic disease referred to in subsection (1).

62 Payment of compensation

Compensation is payable to the owner of—

- (a) any domestic livestock, premises, livestock product, fodder, fittings or vehicle destroyed under this Act for the purpose of controlling, eradicating or preventing the spread of an exotic disease; and
- (b) any domestic livestock that is certified by an inspector as having died of an exotic disease.

63 Amount of compensation

- (1) The amount of compensation payable in respect of any premises, livestock product, fodder, fitting or vehicle is the market value of the premises, livestock product, fodder, fittings or vehicle at the time of destruction.
- (2) The amount of compensation payable in respect of livestock that died or was destroyed because of an exotic disease is—
 - (a) the market value of the livestock at the time at which the owner consulted a veterinary practitioner about the diseased livestock or notified an inspector of the disease under section 7 or restrictions on the movement of the livestock were imposed under Part 3 or at the time the Secretary was notified that it was affected by or died of the disease, whichever is the earlier;
 - (b) with the approval of the Secretary, a further amount representing the difference between the amount paid under paragraph (a) and the market value at the time the restrictions on the movement of the livestock under Part 3 ended if that value was greater than the amount paid under paragraph (a).

S. 63(2)(a)
amended by
No. 58/1997
s. 96(Sch.
item 6.4).

64 Reduction of compensation

- (1) If a claim for compensation under this Division arising out of the destruction of any livestock, premises, livestock product, fodder, fittings or vehicle or the death of any livestock, as a result of an outbreak of an exotic disease is lodged by an owner who has been convicted of an offence in Victoria or any other State or Territory which caused or contributed to—
 - (a) the spread of that exotic disease; or

- (b) the destruction or death of any domestic livestock in respect of which the claim is lodged; or
- (c) the destruction of any premises, livestock product, fodder, fittings or vehicle in respect of which the claim is lodged—

the Minister may by instrument in writing direct that the compensation otherwise payable under this Division, or any part of it that the Minister thinks fit, not be paid.

- (2) If the owner of any livestock visibly affected by an exotic disease has failed to give any notice of the existence of the disease required to be given under this Act or has unreasonably delayed in giving notice, the Minister may, by instrument in writing direct that the compensation otherwise payable under this Division, or any part of it that the Minister thinks fit, not be paid.

65 Review by Victorian Civil and Administrative Tribunal

S. 65
substituted by
No. 52/1998
s. 311(Sch. 1
item 53.1).

- (1) An owner may apply to the Victorian Civil and Administrative Tribunal for review of a direction of the Minister under section 64 that compensation or part of it not be paid to the owner.
- (2) An application for review must be made within 28 days after the later of—
 - (a) the day on which the direction is made;
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the owner requests a statement of reasons for the direction, the day on which the statement of reasons is given to the owner or the owner is informed under section 46(5) of that Act that a statement of reasons will not be given.

Division 2—Bees compensation

66 Bees Compensation Fund

- (1) There is continued in the Public Account, as part of the Trust Fund, the account known as the Bees Compensation Fund.
- (2) There is to be paid to the credit of the Fund—
 - (a) 50% of the registration fees paid under section 48;
 - (b) all annual fees paid under section 49;
 - (c) all interest earned on money in the Fund.
- (3) Money in the Fund may be invested in any manner in which money may be invested under the **Trustee Act 1958** or any other manner that the appropriate Minister approves.

S. 66(3)
amended by
No. 104/1995
s. 6(Sch. 1
item 15(b)).

67 Payments out of the Fund

- (1) The Bees Compensation Fund is to be applied to the payment of compensation payable under this Division and all costs and expenses incidental to determining the compensation payable.
- (2) The Minister may make payments—
 - (a) from the capital of the Fund for administering the provisions of this Act relating to bees;
 - (b) from the interest earned on money from the Fund for programs and projects for the improvement and development of the apicultural industry in Victoria.
- (3) The Minister must not make a payment under subsection (2) unless the Minister has considered any relevant recommendations from the Apicultural Industry Advisory Committee.

S. 67(2)
amended by
No. 73/1996
s. 37(1).

S. 67(3)
amended by
No. 73/1996
s. 37(2).

68 Compensatable disease

- (1) Compensation is only payable under this Division in respect of a disease which is declared by Order of the Governor in Council to be a compensatable disease in respect of bees.
- (2) A reference in this Division to disease is a reference to a disease which has been declared under subsection (1) to be a compensatable disease in respect of bees.

69 Compensation

- (1) Compensation is payable to—
 - (a) the owner of bees destroyed by, or by order of, an inspector because of the presence of disease;
 - (b) the owner of hives, livestock products of bees, fittings or other articles which are destroyed or disinfected by order of an inspector in order to prevent the spread of disease—

S. 69(1)
amended by
No. 73/1996
s. 38(1).

in circumstances determined by Order of the Governor in Council.

- (2) Compensation is not payable under this Division—
 - (a) in respect of bees, livestock products of bees, fittings or other articles which at the time a direction for destruction or disinfection was given were not kept by or were not in the possession of a beekeeper registered under section 48;
 - (b) if the beekeeper has failed to notify the presence of any visible disease which necessitated the destruction or disinfection.

(3) The amount of compensation payable—

S. 69(3)(a)
amended by
No. 73/1996
s. 38(2)(a).

(a) in the case of the destruction of a queen bee,
may be for the whole of the value of the bee
at the time of destruction; and

S. 69(3)(b)
amended by
Nos 73/1996
s. 38(2)(a),
83/1998
s. 12(a).

(b) in the case of destruction of any other bee or
livestock product of bees or fittings, must not
be more than two thirds of the value of the
bees, livestock product or fittings at the time
of their destruction; and

S. 69(3)(c)
amended by
No. 73/1996
s. 38(2)(a).

(c) in the case of disinfection of livestock
products of bees or fittings, must not exceed
the cost of disinfection; and

S. 69(3)(d)
amended by
No. 73/1996
s. 38(2)(a).

(d) must not in respect of any claim by one
owner exceed \$5000; and

S. 69(3)(e)
inserted by
No. 73/1996
s. 38(2)(b).

(e) in the case of the destruction or disinfection
of any bees, livestock, product of bees,
fitting or other article must not exceed the
maximum amount of compensation payable
for that destruction or disinfection
determined by Order of the Governor in
Council.

70 Apicultural Industry Advisory Committee

(1) There is established by this Act a committee to be
known as the Apicultural Industry Advisory
Committee.

(2) The functions of the Committee are to advise the
Minister about—

(a) diseases in respect of which compensation
should be payable under this Division;

S. 70(2)(ab)
inserted by
No. 73/1996
s. 38(3).

(ab) the circumstances in which compensation
should be payable under this Division;

-
- (ac) the maximum amount of compensation which should be payable under this Division for the destruction or disinfection of bees, livestock products of bees, fittings or other articles;
- (b) the maximum amount of compensation payable in respect of any claim by one owner;
- (c) the amounts of fees which should be payable by beekeepers under this Act;
- (d) payments which should be made under section 67(2);
- (e) any other matter referred to the Committee by the Minister.
- (3) The Committee consists of 5 members appointed by the Minister, of whom—
- (a) 3 are to be persons nominated by the Victorian Apiarists' Association Inc.;
- (b) 2 are to be persons nominated by the Secretary.
- (4) The Minister may appoint one of the members of the Committee to be chairperson.
- (5) A member of the Committee may, by notice in writing to the Minister, nominate another person to act in the place of that member at all meetings or any meeting of the Committee. A person so nominated who attends a meeting of the Committee may act as if that person was a member of the Committee and may vote on any matter for resolution by the Committee.
- (6) The provisions of Schedule 1 apply to the Committee.

S. 70(2)(ac)
inserted by
No. 73/1996
s. 38(3).

Division 3—Cattle compensation

71 Cattle Compensation Fund

- (1) There is continued in the Public Account, as part of the Trust Fund, the account known as the Cattle Compensation Fund.
- (2) There is to be paid into the Fund—
 - (a) all money received by or for the Commissioner of State Revenue as duty on statements and approved agents' returns relating to the sale of cattle or calves or the carcasses of cattle under the **Duties Act 2000**;
 - (b) the amounts of residual value of cattle received under section 78 in respect of which compensation is paid;
 - (c) any money paid by the Commonwealth for or in respect of compensation for cattle suffering from disease;
 - (d) all penalties recovered under section 91 relating to offences with respect to cattle;
 - (e) all interest earned on money in the Fund.
- (3) Money in the Fund may be invested in any manner in which money may be invested under the **Trustee Act 1958** or any other manner that the appropriate Minister approves.

S. 71(2)(a)
amended by
No. 84/2008
s. 24.

S. 71(3)
amended by
No. 104/1995
s. 6(Sch. 1
item 15(c)).

72 Payments out of the Fund

- (1) The Cattle Compensation Fund is to be applied—
 - (a) to the payment, in accordance with this Division, of claims for compensation;
 - (b) to the payment, in accordance with this Division, of costs incurred in connection with the transporting and destroying of any cattle if the carcass of the cattle is condemned as unfit for human consumption

or if the cattle are ordered to be destroyed
but die before being destroyed.

(2) The Minister may make payments—

S. 72(2)
amended by
No. 73/1996
s. 37(1).

(a) from the capital of the Fund for
administering the provisions of this Act
relating to cattle or of any other Act
administered by the Minister that requires
the identification of cattle;

S. 72(2)(a)
amended by
No. 73/1996
s. 39.

(b) from interest earned on money from the
Fund for programs and projects for the
benefit of the cattle industry in Victoria.

(3) The Minister must not make a payment under
subsection (2) unless the Minister has considered
any relevant recommendations from the Cattle
Compensation Advisory Committee.

S. 72(3)
amended by
No. 73/1996
s. 37(2).

(4) If the Fund is insufficient to pay any amount of
compensation payable out of the Fund and the
Treasurer certifies that the amount is required for
the payment of compensation under this section,
the amount is to be paid out of the Consolidated
Fund, which is to the necessary extent,
appropriated accordingly.

73 Compensatable diseases

(1) Compensation is only payable under this Division
in respect of tuberculosis or a disease which is
declared by Order of the Governor in Council to
be a compensatable disease in respect of cattle.

(2) A reference in this Division to disease is a
reference to tuberculosis or a disease which has
been declared under subsection (1) to be a
compensatable disease in respect of cattle.

S. 74(1)
amended by
No. 25/1997
s. 4(a)(b).

74 Amount of compensation

- (1) The amount of compensation payable for cattle which are destroyed or which, after being ordered to be destroyed, die before being destroyed must be calculated in accordance with any criteria or method fixed by Order of the Governor in Council with respect to any disease or class of disease or any cattle or class of cattle that is specified in the Order whether after destruction or death the cattle are found to be free from disease or not.
- (2) The amount of compensation payable for any one head of cattle must not exceed any amount that is fixed from time to time by Order of the Governor in Council.
- (3) The amount of compensation payable for cattle which have reached the clinical stage of any disease specified by Order of the Governor in Council must not exceed the level or rate of compensation fixed from time to time by Order of the Governor in Council.
- (4) The amount of compensation payable for any diseased carcase or portion of a diseased carcase condemned as unfit for human consumption because of disease must be in accordance with the scale of amounts of compensation for those carcasses fixed from time to time by Order of the Governor in Council.

75 Payment of compensation

Compensation is payable—

- (a) to the owner of any cattle destroyed by, or by order of, an inspector under this Act because the cattle are suffering from or suspected of suffering from disease;

- (b) to the owner of any cattle which are ordered to be destroyed by an inspector under this Act because the cattle are suffering from or suspected of suffering from disease and which die before being destroyed;
- (c) to the owner of any cattle destroyed because of injury suffered by the cattle in the course of administration of this Act;
- (d) to the owner of any carcase, or portion of a carcase, of cattle condemned under the **Meat Industry Act 1993** or the Export Control Act 1982 of the Commonwealth at any meat processing facility by an inspector as unfit for human consumption because of disease;
- (e) to the owner of any cattle destroyed by, or by order of, an inspector under this Act because—
 - (a) the cattle are suffering from or suspected of suffering from a disease which is declared to be an exotic disease after their destruction; or
 - (b) the cattle are suspected of suffering from an exotic disease but after destruction are found not to be suffering from an exotic disease.

S. 75(e)
inserted by
No. 73/1996
s. 40(1).

76 No compensation payable

No compensation is payable—

- (a) if the head only of a carcase is condemned as unfit for human consumption because of disease; or
- (b) if the owner of any cattle visibly affected by disease has failed to give any notice of the existence of the disease required to be given under this Act; or

S. 76(c)
amended by
No. 84/2008
s. 24.

- (c) if the owner fails to satisfy the Secretary that the duty under the **Duties Act 2000** has been paid in respect of all of that owner's cattle; or
- (d) if the owner fails to satisfy the Secretary that the owner has complied with the requirements of this Act relating to claims for compensation.

77 Compensation payable out of Fund

- (1) Compensation under this Division is payable out of the Cattle Compensation Fund except for compensation for tuberculosis.
- (2) Compensation for tuberculosis is payable—
 - (a) for the amount of the residual value, out of the Cattle Compensation Fund; and
 - (b) for the balance—
 - (i) 40% is payable by the Minister out of money available for the purpose; and
 - (ii) the remainder is payable out of the Cattle Compensation Fund.

78 Sale of carcasses etc.

- (1) The Secretary may sell the carcase, hide and offal of any cattle which are destroyed.
- (2) The amount of any money received for the carcase, hide or offal of cattle sold under subsection (1) must be paid into the Cattle Compensation Fund.

79 Cattle Compensation Advisory Committee

- (1) There is established by this Act a committee to be known as the Cattle Compensation Advisory Committee.

(2) The functions of the Committee are to advise the Minister about—

- (a) diseases for which compensation should be payable;
- (b) the maximum amount of compensation which should be payable under this Act;
- (c) payments which should be made under section 72(2);
- (d) any other matter referred to it by the Minister.

(3) The Committee consists of 7 members appointed by the Minister, of whom—

S. 79(3)
amended by
No. 25/1997
s. 5(a).

- (a) one is to be the President of the Victorian Farmers Federation;
- (b) one is to be the President of the Pastoral Group of the Victorian Farmers Federation;
- (c) one is to be the President of the United Dairyfarmers of Victoria;
- (d) one is to be the President of the Victorian Stock Agents Association;
- (e) one is to be the Chairman of the Cattle Committee of the Victorian Farmers Federation;
- (f) one is to be the Chairman of the Australian Meat Council, Victorian Division;

S. 79(3)(e)
substituted by
No. 25/1997
s. 5(b).

S. 79(3)(f)
inserted by
No. 25/1997
s. 5(b).

(g) one is to be the Secretary;

S. 79(3)(g)
inserted by
No. 25/1997
s. 5(b).

(4) The Minister may appoint one of the members of the Committee to be chairperson.

s. 79A

- (5) A member of the Committee may, by notice in writing to the Minister, nominate another person to act in the place of that member at all meetings or any meeting of the Committee. A person so nominated who attends a meeting of the Committee may act as if that person was a member of the Committee and may vote on any matter for resolution by the Committee.
- (6) The provisions of Schedule 1 apply to the Committee.

Pt 5 Div. 3A
(Heading and
ss 79A–79I)
inserted by
No. 25/1997
s. 6.

Division 3A—Sheep and goat compensation

S. 79A
inserted by
No. 25/1997
s. 6.

79A Sheep and Goat Compensation Fund

- (1) There is established in the Public Account, as part of the Trust Fund, an account known as the Sheep and Goat Compensation Fund.
- (2) There is to be paid to the credit of the Fund—
 - (a) all money received by or for the Commissioner of State Revenue as duty on statements and approved agents' returns relating to the sale of sheep or goats or the carcasses of sheep or goats under the **Duties Act 2000**;
 - (b) the amounts of residual value of sheep or goats sold under section 79H in respect of which compensation is paid;
 - (c) any money paid by the Commonwealth for or in respect of compensation for sheep or goats suffering from disease;

S. 79A(2)(a)
amended by
No. 84/2008
s. 24.

-
- (d) all penalties recovered under section 91 relating to offences with respect to sheep or goats;
 - (e) all interest earned on money in the Fund.
- (3) Money in the Fund may be invested in any manner in which money may be invested under the **Trustee Act 1958** or any other manner that the appropriate Minister approves.

79B Payments out of the Fund

- (1) The Sheep and Goat Compensation Fund is to be applied—

S. 79B
inserted by
No. 25/1997
s. 6.

- (a) to the payment, in accordance with this Division, of claims for compensation;
- (b) to the payment, in accordance with this Division, of costs incurred in connection with the transporting and destroying of any sheep or goats if the carcasses of the sheep or goats are condemned as unfit for human consumption or if the sheep or goats are ordered to be destroyed but die before being destroyed;

S. 79B(1)(b)
amended by
No. 69/2004
s. 46(a).

- (c) to a payment granted under section 79HB.

S. 79B(1)(c)
inserted by
No. 69/2004
s. 46(b).

- (2) The Minister may make payments—
- (a) from the capital of the Fund for administering the provisions of this Act relating to sheep and goats;
 - (b) from interest earned on money from the Fund for programs and projects for the benefit of the sheep and goat industry in Victoria;

s. 79C

S. 79B(2)(c)
inserted by
No. 83/1998
s. 5.

(c) from the capital of the Fund or from interest earned on money from the Fund for programs and projects for the control or eradication of disease of sheep or goats.

(3) The Minister must not make a payment under subsection (2) unless the Minister has considered any relevant recommendations from the Sheep and Goat Compensation Advisory Committee.

S. 79B(4)
repealed by
No. 57/2003
s. 5.

* * * * *

S. 79C
inserted by
No. 25/1997
s. 6,
substituted by
No. 57/2003
s. 6.

79C Compensation payable for Johne's and declared diseases

Compensation is only payable under this Division in respect of—

- (a) Johne's Disease; or
- (b) any other disease that is declared by Order in Council published in the Government Gazette to be a compensatable disease in respect of sheep or goats.

S. 79D
inserted by
No. 25/1997
s. 6.

79D Amount of compensation

- (1) The amount of compensation payable for sheep or goats which are destroyed or which, after being ordered to be destroyed, die before being destroyed must be calculated in accordance with any criteria or method fixed by Order of the Governor in Council with respect to any sheep or goats or class of sheep or goats specified in the Order whether after destruction or death they are found to be free from disease or not.
- (2) The amount of compensation payable for any one head of sheep or goat must not exceed any amount that is fixed from time to time by Order of the Governor in Council.

-
- (3) The amount of compensation payable for sheep or goats which have reached the clinical stage of disease specified by Order in Council must not exceed the level or rate of compensation fixed from time to time by Order of the Governor in Council.
 - (4) The amount of compensation payable for any diseased carcass condemned as unfit for human consumption because of disease must be in accordance with the scale of amounts of compensation for those carcasses fixed from time to time by Order of the Governor in Council.

79E Payment of compensation

S. 79E
inserted by
No. 25/1997
s. 6.

Compensation is payable—

- (a) to the owner of any sheep or goats destroyed by, or by order of, an inspector under this Act because the sheep or goats are suffering from or suspected of suffering from disease; or
- (b) to the owner of any sheep or goats which are ordered to be destroyed by an inspector under this Act because the sheep or goats are suffering from or suspected of suffering from disease and which die before being destroyed; or
- (c) to the owner of any sheep or goats destroyed because of injury suffered by the sheep or goats in the course of administration of this Act; or
- (d) to the owner of any carcass of sheep or goats condemned under the **Meat Industry Act 1993** or the Export Control Act 1982 of the Commonwealth at any meat processing facility by an inspector as unfit for human consumption because of disease.

s. 79F

S. 79F
inserted by
No. 25/1997
s. 6.

79F No compensation payable

No compensation is payable—

- (a) if a portion only of a carcass is condemned as unfit for human consumption because of disease; or
- (b) if the owner of any sheep or goat visibly affected by disease has failed to give any notice of the existence of the disease required to be given under this Act; or
- (c) if the owner fails to satisfy the Secretary that the duty under the **Duties Act 2000** has been paid in respect of all of that owner's sheep or goats; or
- (d) if the owner fails to satisfy the Secretary that the owner has complied with the requirements of this Act relating to claims for compensation.

S. 79F(c)
amended by
No. 84/2008
s. 24.

S. 79G
inserted by
No. 25/1997
s. 6.

79G Compensation payable out of Fund

Compensation under this Division is payable out of the Sheep and Goat Compensation Fund.

S. 79H
inserted by
No. 25/1997
s. 6.

79H Sale of carcasses etc.

- (1) The Secretary may sell the carcass, wool, hide and offal of any sheep or goats which are destroyed.
- (2) The amount of any money received for the carcass, wool, hide or offal of sheep or goats sold under subsection (1) must be paid into the Sheep and Goat Compensation Fund.

S. 79HA
inserted by
No. 69/2004
s. 47.

79HA Interstate sheep producers may apply for payment from fund in respect of duty paid

- (1) An owner of sheep or the carcasses of sheep that were sold in Victoria and that were not produced in Victoria may apply to the Secretary for a payment from the Sheep and Goat Compensation Fund equivalent to any duty paid by, or on behalf

of, the owner during a financial year under section 92(1A)(b) or 95(1A)(b) in respect of the sale of those sheep or carcasses.

- (2) An application under this section—
- (a) must be made in a form and manner approved by the Minister; and
 - (b) must include any information that the Minister may require; and
 - (c) must be lodged no later than 31 October immediately following the end of the financial year to which the application relates.
- (3) In this section *financial year* means any period of 12 months ending on midnight on 30 June but does not include any such period ending before or on 30 June 2004.

79HB Secretary may grant or refuse application

- (1) Subject to subsection (2), the Secretary may grant or refuse to grant an application under section 79HA.
- (2) The Secretary must grant an application under section 79HA if—
- (a) the applicant applies in accordance with section 79HA(2); and
 - (b) the Secretary is satisfied that the application relates to duty paid under section 92(1A)(b) or 95(1A)(b) during the financial year specified in the application by or on behalf of the applicant in respect of the sale of sheep or carcasses of sheep that were owned by the applicant and that were not produced in Victoria.
- (3) The Secretary must notify the applicant in writing of his or her decision under this section.

S. 79HB
inserted by
No. 69/2004
s. 47.

s. 79I
inserted by
No. 25/1997
s. 6.

79I Sheep and Goat Compensation Advisory Committee

- (1) There is established by this Act a committee to be known as the Sheep and Goat Compensation Advisory Committee.
- (2) The functions of the Committee are to advise the Minister about—
 - (a) the maximum amount of compensation which should be payable under this Division;
 - (b) payments which should be made under section 79B(2);
 - (c) any other matter referred to it by the Minister.
- (3) The Committee consists of 7 members appointed by the Minister, of whom—
 - (a) one is to be the President of the Pastoral Group of the Victorian Farmers Federation;
 - (b) one is to be the Chairman of the Sheepmeats Committee of the Pastoral Group of the Victorian Farmers Federation;
 - (c) one is to be the Chairman of the Wool Committee of the Pastoral Group of the Victorian Farmers Federation;
 - (d) one is to be the President of the Australian Association of Stud Sheep Breeders;
 - (e) one is to be the President of the Victorian Stock Agents Association;
 - (f) one is to be the President of the National Meat Association, Victorian Division;
 - (g) one is to be the Secretary.
- (4) The Minister may appoint one of the members of the Committee to be chairperson.

-
- (5) A member of the Committee may, by notice in writing to the Minister, nominate another person to act in the place of that member at all meetings or any meeting of the Committee. A person so nominated who attends a meeting of the Committee may act as if that person was a member of the Committee and may vote on any matter for resolution by the Committee.
 - (6) The provisions of Schedule 1 apply to the Committee.

Division 4—Swine compensation

80 Swine Compensation Fund

- (1) There is continued in the Public Account, as part of the Trust Fund, the account known as the Swine Compensation Fund.
- (2) There is to be paid to the credit of the Fund—
 - (a) all money received by or for the Commissioner of State Revenue as duty on statements and approved agents' returns relating to the sale of pigs or the carcasses of pigs under the **Duties Act 2000**;
 - (b) the amounts of residual value of pigs sold under section 86 in respect of which compensation is paid;
 - (c) all penalties recovered under section 91 relating to offences with respect to pigs;
 - (d) all interest earned on money in the Fund.
- (3) Money in the Fund may be invested in any manner in which money may be invested under the **Trustee Act 1958** or any other manner that the appropriate Minister approves.

S. 80(2)(a)
amended by
No. 84/2008
s. 24.

S. 80(3)
amended by
No. 104/1995
s. 6(Sch. 1
item 15(d)).

81 Payments out of the Fund

- (1) The Swine Compensation Fund is to be applied—
 - (a) to the payment, in accordance with this Division, of claims for compensation;
 - (b) to the payment, in accordance with this Division, of costs incurred in connection with the transporting and destroying of any pig if the carcase of the pig is condemned as unfit for human consumption or if the pig is ordered to be destroyed but dies before being destroyed.
- (2) The Minister may make payments from the Fund for projects for the benefit of the swine industry in Victoria.
- (3) The Minister must not make a payment under subsection (2) unless the Minister has considered any relevant recommendations from the Swine Industry Projects Advisory Committee.
- (4) The appropriate Minister must not make a payment under subsection (2) unless, if the proposed payment was made, the amount standing to the credit of the Fund, immediately after the payment would be at least \$500 000.
- (5) If the Fund is insufficient to pay any amount of compensation payable out of the Fund and the Treasurer certifies that the amount is required for the payment of compensation under this section, the amount is to be paid out of the Consolidated Fund which is, to the necessary extent, appropriated accordingly.

S. 81(2)
amended by
No. 73/1996
s. 37(1).

S. 81(3)
amended by
No. 73/1996
s. 37(2).

82 Compensatable diseases

- (1) Compensation is only payable under this Division in respect of tuberculosis or a disease which is declared by Order of the Governor in Council to be a compensatable disease in respect of swine.

- (2) A reference in this Division to disease is a reference to tuberculosis or a disease which has been declared by Order in Council under subsection (1) to be a compensatable disease in respect of swine.

83 Payment of compensation

Compensation is payable—

- (a) to the owner of any pig destroyed by, or, by order of, an inspector under this Act because the pig is suffering from or suspected of suffering from disease;
- (b) to the owner of the pig which is ordered to be destroyed by an inspector under this Act because the pig is suffering from or suspected of suffering from disease and which dies before being destroyed;
- (c) to the owner of any pig destroyed because of injury suffered by the pig in the course of administration of this Act;
- (d) to the owner of any carcass, or portion of a carcass, of a pig condemned under the **Meat Industry Act 1993** or the Export Control Act 1982 of the Commonwealth at any meat processing facility by an inspector as unfit for human consumption because of disease;
- (e) to the owner of any pigs destroyed by, or by order of, an inspector under this Act because—
 - (a) the pigs are suffering from or suspected of suffering from a disease which is declared to be an exotic disease after their destruction; or

S. 83(e)
inserted by
No. 73/1996
s. 40(2).

- (b) the pigs are suspected of suffering from an exotic disease but after destruction are found not to be suffering from an exotic disease.

84 No compensation payable

No compensation is payable—

- (a) if the head only of a carcase is condemned as unfit for human consumption because of disease; or
- (b) if the owner of any pig visibly affected by disease has failed to give any notice of the existence of the disease required to be given under this Act; or
- (c) if the owner fails to satisfy the Secretary that the duty under the **Duties Act 2000** has been paid in respect of all of that owner's swine; or
- (d) if the owner fails to satisfy the Secretary that the owner has complied with the requirements of this Act relating to claims for compensation; or
- (e) if, within 3 months of being brought into Victoria, a pig is destroyed or ordered to be destroyed because the pig is suffering from tuberculosis unless the Secretary is satisfied that the pig became diseased after being brought into Victoria or the pig is found on destruction or on dying before being destroyed to be free from disease.

S. 84(c)
amended by
No. 84/2008
s. 24.

85 Amount of compensation

- (1) The amount of compensation payable for a pig which is destroyed or which, after being ordered to be destroyed, dies before being destroyed is the market value of the pig whether after destruction or death it is found to be free from disease or not.

-
- (2) The amount of compensation payable for any pig must not exceed any amount that is fixed from time to time by Order of the Governor in Council.
 - (3) The amount of compensation payable for any diseased carcase or portion of a diseased carcase condemned as unfit for human consumption because of disease must be in accordance with the scale of amounts of compensation for those carcasses fixed from time to time by Order of the Governor in Council.

86 Sale of carcasses etc.

- (1) The Secretary may sell the carcase, hide and offal of any pig which is destroyed.
- (2) The amount of any money received for any carcase, hide or offal of pig sold under subsection (1) must be paid into the Swine Compensation Fund.

87 Swine Industry Projects Advisory Committee

- (1) There is established by this Act a committee to be known as the Swine Industry Projects Advisory Committee.
- (2) The functions of the Committee are to advise the Minister on—
 - (a) any proposed projects for which payment under this Division is sought;
 - (b) any other matter referred to the Committee by the Minister.
- (3) The Committee consists of 5 members appointed by the Minister, of whom—
 - (a) 3 are chosen from a panel submitted to the Minister by the Victorian Farmers Federation of the names of at least 5 people whom the Federation considers to represent the swine industry in Victoria;

S. 87(3)(b)
amended by
Nos 46/1998
s. 7(Sch. 1),
56/2003
s. 11(Sch.
item 9.2).

(b) 2 are officers of the Department of Primary Industries.

- (4) If the Victorian Farmers Federation fails to submit a panel of names within 30 days after a request from the Minister, the Minister may appoint suitably qualified people as members of the Committee.
- (5) The Minister may appoint one of the members appointed under subsection (3)(b) to be chairperson.
- (6) The provisions of Schedule 1 apply to the Committee.

Division 5—General

88 Claims for compensation

- (1) No compensation is payable under this Part unless the owner of the livestock, premises, livestock product, fodder, fitting or vehicle applies for compensation in the manner prescribed and within the time limits prescribed.
- (2) No compensation is payable under this Part in respect of a carcase or a portion of a carcase condemned as unfit for human consumption unless a sample or specimen of the carcase or portion of the carcase has been sent to a veterinary diagnostic laboratory registered under section 16 and a report from that laboratory confirms that disease is present in the carcase or portion of the carcase.

89 No compensation for loss of profit etc.

In determining the compensation to be paid under this Part, no allowance for loss of profit, loss occasioned by breach of contract, loss of production or any other consequential losses shall be made.

90 Valuation of livestock

- (1) The value of any livestock, premises, livestock product, fodder, fitting or vehicle which is destroyed or of any livestock which after being ordered to be destroyed dies before being destroyed or of any carcase or portion of a carcase which is condemned as unfit for human consumption is to be determined by agreement between the owner of the livestock, premises, livestock product, fodder, fitting or vehicle and—
- (a) in the case of infection or contamination by an exotic disease, a person nominated by the Minister, who has the qualifications, experience or training to undertake valuations of that type; and
 - (b) in case of infection or contamination by any other disease, the inspector by whom the livestock, livestock product, fodder or fitting is destroyed or ordered to be destroyed or the carcase or the portion of the carcase is condemned.
- (2) If agreement under subsection (1) cannot be reached the value must be determined—
- (a) in the case of infection or contamination by an exotic disease, by a person or persons who have experience in the arbitration of disputes nominated by the Minister; and
 - (b) in the case of infection or contamination by any other disease by a competent and impartial person nominated by the Secretary.

S. 90(2)(a)
amended by
No. 73/1996
s. 48(c).

91 False claims

A person must not make any false or misleading statement in any application, form, notice or report relating to a claim for compensation under this Part.

Penalty: 120 penalty units or 12 months imprisonment or both.

PART 6—STAMP DUTY AND RECORDS

Pt 6 (Heading)
substituted by
No. 89/2001
s. 13.

92 Payment of duty by owner of cattle, sheep, goats or pigs

(1) If an owner of cattle or calves sells the cattle or calves or the carcasses of those cattle otherwise than through an approved agent or to an approved agent who is purchasing the cattle, calves or carcasses on the approved agent's own behalf, the owner must either personally or by his or her agent upon the sale—

S. 92(1)
amended by
No. 83/1998
s. 6(a)(b).

(a) write out or cause to be written out a statement setting out the number of cattle or calves or the carcasses of cattle sold, the amount of the purchase money in respect of each calf or head of cattle or carcase sold and the date of sale and the amount of duty paid to the Commissioner of State Revenue under the **Duties Act 2000**;

S. 92(1)(a)
amended by
No. 84/2008
s. 32(1).

* * * * *

S. 92(1)(b)
amended by
No. 79/2000
s. 285(Sch. 1
item 3.1),
repealed by
No. 84/2008
s. 32(2).

(c) give or send by post to the purchaser of the cattle or calves or the carcasses of cattle the statement within 7 days after the sale.

S. 92(1)(c)
amended by
No. 73/1996
s. 41(a).

Penalty: 10 penalty units.

(1A) If an owner of sheep or goats sells the sheep or goats or the carcasses of the sheep or goats otherwise than through an approved agent or to an approved agent who is purchasing the sheep, goats or carcasses on the approved agent's own behalf,

S. 92(1A)
inserted by
No. 25/1997
s. 7,
amended by
No. 83/1998
s. 6(a)(c).

s. 92

the owner must either personally or by his or her agent upon the sale—

S. 92(1A)(a)
amended by
No. 84/2008
s. 32(1).

- (a) write or cause to be written out a statement setting out the number of sheep, goats or carcasses sold, the amount of the purchase money in respect of each sheep, goat or carcase sold and the date of sale and the amount of duty paid to the Commissioner of State Revenue under the **Duties Act 2000**; and

S. 92(1A)(b)
amended by
No. 79/2000
s. 285(Sch. 1
item 3.1),
repealed by
No. 84/2008
s. 32(2).

* * * * *

- (c) give, or send by registered post, to the purchaser of the sheep or goats or carcasses the statement within 7 days after the sale.

Penalty: 10 penalty units.

S. 92(2)
amended by
No. 83/1998
s. 6(a)(d).

- (2) If an owner of pigs sells the pigs or the carcasses of those pigs otherwise than through an approved agent or to an approved agent who is purchasing the pigs or carcasses on the approved agent's own behalf, the owner must either personally or by his or her agent upon the sale—

S. 92(2)(a)
amended by
No. 84/2008
s. 32(1).

- (a) write out or cause to be written out a statement setting out the number of pigs or carcasses of pigs sold, the amount of the purchase money in respect of each pig or carcase sold and the date of sale and the amount of duty paid to the Commissioner of State Revenue under the **Duties Act 2000**;

Livestock Disease Control Act 1994
No. 115 of 1994

s. 92

* * * * *

S. 92(2)(b)
amended by
No. 79/2000
s. 285(Sch. 1
item 3.1),
repealed by
No. 84/2008
s. 32(2).

(c) give or send by post to the purchaser of the
pigs or carcasses of pigs the statement within
7 days after the sale.

S. 92(2)(c)
amended by
No. 73/1996
s. 41(b).

Penalty: 10 penalty units.

(3) An owner's liability to an offence under this
section does not affect the owner's liability to pay
the amount of any unpaid duty.

(4) In this section—

purchase money for a sale does not include any
amount in respect of any GST payable on the
supply to which the sale relates.

S. 92(4)
inserted by
No. 6/2000
s. 35(2).

* * * * *

S. 93
amended by
Nos 25/1997
s. 8, 79/2000
s. 285(Sch. 1
items 3.2, 3.3),
repealed by
No. 84/2008
s. 33.

* * * * *

S. 94
amended by
Nos 73/1996
s. 42, 79/2000
s. 285(Sch. 1
item 3.4),
repealed by
No. 84/2008
s. 25.

s. 94A

94A Records of sales and purchases

S. 94A
inserted by
No. 73/1996
s. 43,
substituted by
No. 83/1998
s. 7.

S. 94A(1)
amended by
No. 89/2001
s. 14(1).

- (1) An approved agent or a person who carries on business as a stock and station agent, an abattoir operator, a feedlot operator, a cattle scale operator, a calf dealer or any other prescribed business dealing with the selling of livestock or the carcasses of livestock who sells, as agent for another person, any livestock of a prescribed species or class must ensure that the prescribed particulars about the livestock sold are—
 - (a) recorded; and
 - (b) supplied to the person who purchased the livestock if that person is a prescribed purchaser or of a prescribed class of purchasers; and
 - (c) made available for inspection by an inspector during the period of 7 years after the date of the sale.

Penalty: 5 penalty units.

S. 94A(2)
amended by
No. 89/2001
s. 14(2)(a)–(c).

- (2) An approved agent or a person who carries on business as an abattoir operator, knackery, saleyard operator, a stock and station agent or any other prescribed business that involves the purchasing of livestock who purchases any livestock of a prescribed species or class must ensure that the prescribed particulars about the livestock purchased are—
 - (a) recorded; and

-
- (b) supplied to the person who sold the livestock if that person is a prescribed seller or of a prescribed class of sellers; and
 - (c) made available for inspection by an inspector during the period of 7 years after the date of the sale or purchase.

Penalty: 5 penalty units.

94B Notification about livestock slaughter or disposal

S. 94B
inserted by
No. 89/2001
s. 15.

The operator of an abattoir or knackery must—

- (a) at the time of the slaughter or disposal of cattle or prescribed livestock at the abattoir or knackery, make a record of the slaughter or disposal that includes—
 - (i) the date of the slaughter or disposal;
 - (ii) details of the code allocated by the Secretary under section 9B to the cattle or prescribed livestock slaughtered or disposed of;
 - (iii) details of the number identifying the individual livestock;
 - (iv) any other prescribed information; and
- (b) within 7 days after the slaughter or disposal or any lesser period specified by the Secretary by notice published in the Government Gazette, notify the Secretary or a person nominated by the Secretary by a method approved by the Secretary of the details set out in paragraph (a).

Penalty: 5 penalty units.

s. 95

S. 95
amended by
No. 25/1997
s. 9, 83/1998
s. 8, 79/2000
s. 285(Sch. 1
item 3.5),
substituted by
No. 84/2008
s. 26.

S. 95(1)(b)
amended by
No. 84/2008
s. 34.

95 Payment of duty by approved agents in respect to cattle

- (1) An approved agent must not later than the 21st day of each month furnish to the Commissioner of State Revenue—
 - (a) if during the last preceding month there has been no sale or purchase of cattle and calves and carcasses of cattle, a nil return; or
 - (b) in any other case, a return or returns of sales or purchases of cattle and calves and the carcasses of cattle during the last preceding month, in the prescribed form, verified in the prescribed manner.

Penalty: 5 penalty units.

- (2) An approved agent must not later than the 21st day of each month pay to the Commissioner as cattle duty on any return the duty chargeable under the **Duties Act 2000**.

Penalty: 5 penalty units and a penalty equal to double the amount of duty that would have been payable if the requirement of this subsection and the **Duties Act 2000** had been complied with.

- (3) An approved agent must keep or cause to be kept in Victoria sufficient books to enable the agent to calculate accurately the amounts which are to be set out in returns required under this section.

Penalty: 5 penalty units.

- (4) An approved agent must keep available for inspection the books and records and all working papers used in making the calculations for at least 3 years from the month to which each return relates or for such other period as the Commissioner determines in any particular case.

Penalty: 5 penalty units.

-
- (5) An approved agent must issue to a purchaser of cattle or calves or the carcasses of cattle an invoice that sets out—
- (a) the registration number assigned to the approved agent; and
 - (b) the amount of duty paid; and
 - (c) the expression "Vic. Cattle Duty Paid"; and
 - (d) any prescribed particulars.

Penalty: 5 penalty units.

- (6) A purchaser referred to in subsection (5) must keep the invoice issued to the purchaser for at least 3 years.

- (7) An approved agent who purchases cattle or calves or the carcasses of cattle on the approved agent's own behalf, must issue to a seller of those cattle, calves or carcasses a statement that sets out—

- (a) the registration number assigned to the approved agent; and
- (b) the amount of duty paid; and
- (c) the expression "Vic. Cattle Duty Paid"; and
- (d) any prescribed particulars.

Penalty: 5 penalty units.

- (8) A seller referred to in subsection (7) must keep the statement issued to the seller for at least 3 years.

95A Payment of duty by approved agents in respect to sheep and goats

- (1) An approved agent must not later than the 21st day of each month furnish to the Commissioner of State Revenue—

S. 95A
inserted by
No. 84/2008
s. 26.

S. 95A(1)(b)
amended by
No. 84/2008
s. 34.

(a) if during the last preceding month there has been no sale or purchase of sheep and goats and carcasses of sheep and goats, a nil return;
or

(b) in any other case, a return or returns of sales or purchases of sheep and goats and the carcasses of sheep and goats during the last preceding month, in the prescribed form, verified in the prescribed manner.

Penalty: 5 penalty units.

(2) An approved agent must not later than the 21st day of each month pay to the Commissioner as sheep and goat duty on any return the duty chargeable under the **Duties Act 2000**.

Penalty: 5 penalty units and a penalty equal to double the amount of duty that would have been payable if the requirement of this Part and the **Duties Act 2000** had been complied with.

(3) An approved agent must keep or cause to be kept in Victoria sufficient books to enable the agent to calculate accurately the amounts which are to be set out in returns required under this section.

Penalty: 5 penalty units.

(4) An approved agent must keep available for inspection the books and records and all working papers used in making the calculations for at least 3 years from the month to which each return relates or for such other period as the Commissioner determines in any particular case.

Penalty: 5 penalty units.

(5) An approved agent must issue to a purchaser of sheep or goats or the carcasses of sheep or goats an invoice that sets out—

-
- (a) the registration number assigned to the approved agent; and
 - (b) the amount of duty paid; and
 - (c) the expression "Vic. Sheep and Goat Duty Paid"; and
 - (d) any prescribed particulars.

Penalty: 5 penalty units.

- (6) A purchaser referred to in subsection (5) must keep the invoice issued to the purchaser for at least 3 years.
- (7) An approved agent who purchases sheep or goats or the carcasses of sheep or goats on the approved agent's own behalf must issue to the seller of those sheep, goats or carcasses a statement that sets out—
 - (a) the registration number assigned to the approved agent; and
 - (b) the amount of duty paid; and
 - (c) the expression "Vic. Sheep and Goat Duty Paid"; and
 - (d) any prescribed particulars.

Penalty: 5 penalty units.

- (8) A seller referred to in subsection (7) must keep the statement issued to the seller for at least 3 years.

95B Payment of duty by approved agents in respect to pigs

S. 95B
inserted by
No. 84/2008
s. 35.

- (1) An approved agent must not later than the 21st day of each month furnish to the Commissioner of State Revenue—

-
- (a) if during the last preceding month there has been no sale or purchase of pigs and carcasses of pigs, a nil return; or
- (b) in any other case, a return or returns in the prescribed form verified in the prescribed manner of sales or purchases of pigs and the carcasses of pigs during the last preceding month.

Penalty: 5 penalty units.

- (2) An approved agent must not later than the 21st day of each month pay to the Commissioner as swine duty on any return the duty chargeable under the **Duties Act 2000**.

Penalty: 5 penalty units and a penalty equal to double the amount of duty that would have been payable if the requirement of this subsection and the **Duties Act 2000** had been complied with.

- (3) An approved agent must keep or cause to be kept in Victoria sufficient books to enable the agent to calculate accurately the amounts which are to be set out in returns required under this section.

Penalty: 5 penalty units.

- (4) An approved agent must keep available for inspection the books and records and all working papers used in making the calculations for at least 3 years from the month to which each return relates or for such other period as the Commissioner determines in any particular case.

Penalty: 5 penalty units.

- (5) An approved agent must issue to a purchaser of pigs or the carcasses of pigs an invoice that sets out—
- (a) the registration number assigned to the approved agent; and
 - (b) the amount of duty paid; and
 - (c) the expression "Vic. Swine Duty Paid"; and
 - (d) any prescribed particulars.

Penalty: 5 penalty units.

- (6) A purchaser referred to in subsection (5) must keep the invoice issued to the purchaser for at least 3 years.

- (7) An approved agent who purchases pigs or the carcasses of pigs on the approved agent's own behalf must issue to the seller of those pigs or carcasses a statement that sets out—

- (a) the registration number assigned to the approved agent; and
- (b) the amount of duty paid; and
- (c) the expression "Vic. Swine Duty Paid"; and
- (d) any prescribed particulars.

Penalty: 5 penalty units.

- (8) A seller referred to in subsection (7) must keep the statement issued to the seller for at least 3 years.

96 Offences

* * * * *

S. 96(1)
amended by
Nos 83/1998
s. 9(a),
79/2000
s. 285(Sch. 1
item 3.6),
repealed by
No. 84/2008
s. 27.

s. 96A

S. 96(2)
amended by
Nos 25/1997
s. 10, 83/1998
s. 9(b).

- (2) A person must not endorse on any invoice, statement or other document the expression "Vic. Cattle Duty Paid, Vic Sheep and Goat Duty Paid" or "Vic. Swine Duty Paid" and a number or any similar expression and a number unless the person is an approved agent or an officer or employee of an approved agent who makes the endorsement in accordance with this Act.

Penalty: 60 penalty units or imprisonment for a term of not more than 6 months or both.

S. 96A
inserted by
No. 25/1997
s. 11.

96A Suspension of requirement to pay duty

S. 96A(1)
amended by
No. 84/2008
s. 28.

- (1) The Governor in Council may from time to time declare by Order that the provisions of sections 92(1A), 95A(1) and 95A(2) have no force or effect for any period, not exceeding 12 months, that is specified in the Order.

S. 96A(2)
amended by
No. 84/2008
s. 28.

- (2) Sections 92(1A), 95A(1) and 95A(2) cease to have any force or effect on and from a day specified in the Order or, if no day is specified in the Order, on and from the day the Order is published in the Government Gazette.
- (3) An Order under this section may be extended for any period not exceeding 12 months that is specified by Order of the Governor in Council.

S. 96B
inserted by
No. 89/2001
s. 16.

96B Evidence of ownership of livestock

A person (*the agent*) must not sell livestock prescribed for the purposes of section 94B on behalf of another person unless that other person is known to the agent or has provided evidence to the agent that the other person is the owner of the livestock.

Penalty: 5 penalty units.

PART 7—ADMINISTRATION

Division 1—Administration of licences, registrations etc.

97 Applications

- (1) A person may apply to the Secretary for the grant or renewal of a licence or registration under this Act.
- (2) An application must—
 - (a) be in a form approved by the Secretary; and
 - (b) include any information that the Secretary may require; and
 - (c) be accompanied by the relevant fee.

98 Grant or refusal

- (1) The Secretary may grant or renew or refuse to grant or renew a licence or registration.
- (2) A licence or registration is subject to any conditions, restrictions or limitations that are prescribed or are imposed by the Secretary and specified in the licence or registration.
- (3) The Secretary may, by notice in writing to the holder of a licence or a registered person, vary or omit any conditions of the licence or registration and impose new conditions, limitations or restrictions.
- (4) The Secretary may refuse to grant or renew a licence or registration—
 - (a) if the applicant has been convicted of an offence against this Act or an Act repealed by this Act; or
 - (b) on any prescribed ground.

99 Term of licence or registration

A licence or registration continues in operation for the period not exceeding 3 years specified in it unless cancelled before then.

S. 100
amended by
No. 83/1998
s. 12(b).

100 Cancellation or suspension

- (1) The Secretary may, by notice in writing, to the holder of a licence or a registered person, cancel or suspend the licence or registration if—
- (a) the holder or the registered person has not complied with a condition of the licence or registration; or
 - (b) the holder or registered person has been convicted of an offence against this Act or an Act repealed by this Act; or
 - (c) a relevant fee has not been paid; or
 - (d) the Secretary becomes aware of any information which, if it had been known at the time the licence or registration was granted, would have prevented the grant of the licence or registration; or
 - (e) any prescribed ground exists.
- (2) A notice must specify—
- (a) the date on which the cancellation or suspension takes effect; and
 - (b) in the case of suspension—
 - (i) the period of suspension; or
 - (ii) any conditions that must be satisfied before the suspension will be lifted.

101 Reviews by Victorian Civil and Administrative Tribunal

S. 101
substituted by
No. 52/1998
s. 311(Sch. 1
item 53.2).

- (1) A person whose interests are affected by a decision of the Secretary—
- (a) to refuse to grant or renew a licence or registration; or
 - (b) to suspend or cancel a licence or registration; or
 - (c) to impose or vary conditions, restrictions or limitations on a licence or registration—
- may apply to the Victorian Civil and Administrative Tribunal for review of the decision.
- (2) An application for review must be made within 28 days after the later of—
- (a) the day on which the decision is made;
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

Division 2—General

102 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 and the powers under sections 26, 29 and 104.

103 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.

104 Fees

- (1) The Minister may, by notice published in the Government Gazette, fix fees to be paid for anything done under this Act.
- (2) The power to fix fees under this section may be exercised—
 - (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or class of case; and
 - (b) so as to make, with respect to cases in relation to which the power is exercised—
 - (i) the same provision for all cases in relation to which the power is exercised, or different provisions for different cases or classes of case, or different provisions for the same case or class of case for different purposes; or
 - (ii) any such provision either unconditionally or subject to any specified condition.

105 Protection of control programs

- (1) The Secretary may by order in writing certify that—
- (a) an outbreak of an exotic disease exists in any part or area of Victoria; or
 - (b) an outbreak of an exotic disease exists in any other part or area of Australia outside Victoria and it is necessary or expedient to take action or to make any authorisation or declaration under this Act to prevent, or reduce the risk of, the spread of the disease to Victoria.
- (2) When such an order has been made, no proceedings for an injunction, or for any order in the nature of a prerogative writ or of any other kind may be instituted or continued in any court against the Minister, the Secretary, an inspector or any other person that would stop, prevent or restrain the Minister, Secretary, inspector or other person from taking or purporting to take any action or making any declaration or authorisation under this Act in relation to or in consequence of an outbreak or suspected outbreak of an exotic disease (whether within Victoria or any other part or area of Australia referred to in an order under subsection (1)(b)).
- (3) An order under this section—
- (a) comes into force on the date it is signed; and
 - (b) must be notified in the Government Gazette within 5 days after that date.

S. 105(1)
substituted by
No. 57/2003
s. 7(1).

S. 105(2)
amended by
No. 57/2003
s. 7(2).

-
- (4) Nothing in this section prevents the institution or continuation in any court of any action or proceedings to recover damages in respect of any loss incurred or damage suffered as a result of any act or omission in the negligent exercise or purported exercise by any person of a power or authority conferred by or under this Act.

106 Protection of persons assisting inspector

A person is not personally liable for anything done or omitted to be done in good faith at the request of an inspector to provide assistance to the inspector—

- (a) in the exercise of a power or authority of the inspector under this Act; or
- (b) in the reasonable belief that the act or omission was in the exercise of a power or authority of the inspector under this Act.

107 Non-compliance under order

- (1) If a person fails for any reason to comply with an order of the Minister or the Secretary or a direction by an inspector or any other requirement under this Act, an inspector may cause the order, direction or requirement to be carried out.
- (2) All reasonable costs and expenses incurred by an inspector as a result of the failure of any person to comply with any such order, direction or requirement may be recovered by the Minister from—
 - (a) the person to whom the order or direction was given or at whom the requirement was made; or

- (b) any other person who was responsible for that person's failure to comply with the order, direction or requirement—

as a debt due and arising to the Crown in any court of competent jurisdiction.

107A Information collection

The functions of the Secretary under this Act include—

- (a) the establishment of an information system which includes records required to be kept by the Secretary under this Act, the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** and the **Stock (Seller Liability and Declarations) Act 1993**;
- (b) the analysis of the information and the publication of the information in accordance with this Act or the Act under which the records are required or authorised to be kept and maintained by the Secretary.

S. 107A
inserted by
No. 73/1996
s. 47.

107B Records of notifications etc.

- (1) The Secretary must keep and maintain records of—

- (a) notifications given to the Secretary under section 7;
- (b) applications for property identification numbers or codes allocated by the Secretary under regulations made for the purposes of section 9 and the codes or numbers allocated under those provisions;
- (c) applications for property identification codes or numbers under section 9B and the codes or numbers allocated under that section;

S. 107B
inserted by
No. 73/1996
s. 47.

-
- (d) applications for registration under section 48;
 - (e) applications for compensation under Part 5;
 - (f) records of notification under sections 11 and 12 of the **Stock Diseases Act 1968** in the possession or under the control of the Secretary immediately before the repeal of that Act;
 - (g) records in the possession or under the control of the Secretary under the **Bees Act 1971** immediately before its repeal;
- (2) Records maintained by the Secretary under subsection (1) may be made available by the Secretary in the form that does not identify individuals, properties or premises to any person or body who applies in writing for the information.
- (3) Records maintained by the Secretary under subsection (1)(a) or (f) may be made available by the Secretary subject to any conditions specified by the Secretary to—
- (a) any person or body if the owner of the livestock, property or premises referred to in the records or any other person mentioned in the records consents in writing to the release of the information; or
 - (b) to any person or body nominated by the owner of the livestock, property or premises, or any person referred to in the records as carrying out services on behalf of or as agent for the owner or the person referred to in the records; or

-
- (c) to any person or body if the Secretary is satisfied that it is in the public interest that the information should be released to that person or body; or
- (d) any officer or employee referred to in subsection (4)(b).
- (4) Records maintained by the Secretary under subsection (1)(b), (c), (d), (e) or (g) may be made available to—
- (a) any person, body or organisation or any prescribed class of persons, bodies or organisations prescribed by the regulations; or
- (b) any officer or employee of a government department, agency or public statutory authority of the Commonwealth or a State or Territory of the Commonwealth employed in the administration of this Act, the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992**, the **Stock (Seller Liability and Declarations) Act 1993** or any prescribed Act of the Commonwealth or a State or Territory of the Commonwealth—
- subject to any conditions specified by the Secretary.
- (5) The Secretary may charge a fee fixed by the Secretary by notice published in the Government Gazette for access to, or copies or extracts from, any records maintained by the Secretary under this section.

s. 107C

S. 107C
inserted by
No. 73/1996
s. 47.

107C Secrecy

- (1) A person who has at any time—
- (a) exercised a power or discharged a function under this Act or the regulations; or
 - (b) been employed for the purposes of, or in connection with, the administration of this Act or the regulations—

must not divulge or communicate to any person or publish any information referred to in section 107B unless the divulgence, communication or publication is made in accordance with that section.

Penalty: 60 penalty units

S. 107C(2)
amended by
No. 83/1998
s. 12(c).

- (2) A person or body to whom information is made available under section 107B, and a person or employee under the control of that person or body, is subject, in respect of that information, to the same rights, privileges, obligations and liabilities under this section as if that person, body or employee were a person referred to in subsection (1).

PART 8—ENFORCEMENT

Division 1—Inspectors

108 Inspectors

(1) The Secretary may, by instrument appoint any person employed under Part 3 of the **Public Administration Act 2004** to be an inspector for the purposes of all or any of the provisions of this Act and in respect of all or any livestock.

S. 108(1)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 116.1).

(2) If the Secretary makes an order under section 105 that an outbreak of exotic disease exists in any part or area of Victoria or in any part or area of Australia, the Secretary may, by instrument appoint—

S. 108(2)
substituted by
No. 57/2003
s. 8(1).

- (a) any suitably qualified person to be an inspector;
- (b) members of the Police Force of Victoria or persons employed or engaged by emergency services agencies within the meaning of the **Emergency Management Act 1986** to be inspectors—

for the purposes of all or any of the provisions of this Act and in respect of all or any livestock specified in the instrument for the period that the order remains in force.

(2A) A person in a class of persons appointed under subsection (2)(b) may perform all of the functions and exercise all of the powers of an inspector under Division 3 of this Part.

S. 108(2A)
inserted by
No. 57/2003
s. 8(1).

s. 109

S. 108(3)
amended by
No. 57/2003
s. 8(2).

(3) The Secretary must issue an identification certificate to each inspector appointed under subsection (1) or (2)(a) which sets out the provisions of this Act and the livestock the inspector is appointed to be an inspector for.

S. 108(4)
amended by
No. 57/2003
s. 8(2).

(4) An inspector appointed under subsection (1) or (2)(a) must, in the course of performing his or her functions under this Act, produce his or her identification certificate to any person who requests its production.

S. 108(5)
inserted by
No. 57/2003
s. 8(3).

(5) An inspector appointed under subsection (2)(b) must, in the course of performing his or her functions or exercising his or her powers under this Act, produce to any person who requests its production—

(a) his or her identification as a member of the Police Force or a person employed or engaged by an emergency services agency; and

(b) in the case of a person employed or engaged by an emergency services agency, a copy of the instrument of appointment under subsection (2)(b).

Division 2—General powers of inspector

109 General powers of inspectors

S. 109(1)
amended by
No. 35/2009
s. 95.

(1) An inspector may for the purposes of exercising any power conferred on the inspector by this Act or determining whether this Act, the regulations or any order made under this Act are being or have been complied with—

(a) enter and search any land, vehicle or place or any premises other than premises being used as a residence;

-
- (b) require a person—
- (i) to answer a question to the best of that person's knowledge, information and belief;
 - (ii) take reasonable steps to provide information;
- (c) require a person to produce any document that the inspector reasonably requires for ascertaining whether this Act is being complied with, and—
- (i) to examine that document; and
 - (ii) to make copies of it or take extracts from it; and
 - (iii) to remove the document for as long as is reasonably necessary to make copies or take extracts; and
- (d) muster, inspect, count, examine, mark for identification, test, vaccinate, treat or disinfect any livestock, livestock product, fodder or fitting or any item or receptacle;
- (e) take and remove for analysis or examination samples of or from or specimens of any livestock, livestock product, fodder, fittings, land, premises, place or vehicle which the inspector reasonably believes is infected with or contaminated by a disease;
- (f) conduct any analysis or examination of any livestock or livestock product or a sample or specimen of the livestock or livestock product;
- (g) require an owner to muster, yard or secure the owner's livestock or to provide adequate facilities and assistance to allow the safe and efficient handling of livestock during
-

inspection and during the taking of samples and specimens.

- (2) An inspector may, in performing any function under this Act, make use of any assistants whose help is reasonably required to perform that function.
- (3) An inspector who takes a sample or specimen under subsection (1)(e) must, if requested by the owner of the livestock, livestock product, fodder, fittings or vehicle or the owner or occupier of the land, premises or place, give that person a portion of that sample or specimen.
- (4) An inspector may not exercise any powers under this section if the inspector fails to produce, on request, his or her identification certificate for inspection by the occupier of the land or premises or the person in charge or apparent control of the vehicle.

110 Quarantine notice

- (1) An inspector who believes on reasonable grounds that, in order to prevent the spread of disease, it is necessary to do so, may by notice in writing order that any premises, place or vehicle be quarantined and kept secure so as to prohibit or restrict the movement of any livestock, livestock product, fodder or fitting onto or out of the premises, place or vehicle affected by the notice.
- (2) If a quarantine notice affects any premises or place, it may prohibit or restrict the movement of any vehicle onto or out of the premises or place.
- (3) A copy of the quarantine notice must be given to the owner or person in charge or in apparent control of the premises, place or vehicle to which the notice relates.

111 Duration of notice

A quarantine notice remains in force until revoked by the Secretary.

112 Offence

A person must not contravene any provision of a quarantine notice.

Penalty: In the case of a quarantine notice issued in respect of an exotic disease, 240 penalty units or 24 months imprisonment or both.

In any other case, 60 penalty units.

113 Disinfection notice

(1) An inspector who believes on reasonable grounds that a vehicle or any premises or place where—

- (a) livestock or livestock products are commonly exposed for sale;
- (b) livestock are commonly exposed for exhibition, parade, racing or any other form of recreation or competition;

(ba) livestock or livestock products are kept or commonly kept;

S. 113(1)(ba)
inserted by
No. 7/2007
s. 9(1).

(c) livestock or livestock products are processed for human or animal consumption—

is infected with a disease may, by notice in writing to the owner or person in charge or apparent control of the premises, place or vehicle affected by the notice, require that person to disinfect—

(d) the place, premises or vehicle specified in the notice;

S. 113(1)(e)
amended by
No. 7/2007
s. 9(2).

- (e) any fodder, fitting or any other article within the premises, place or vehicle;
 - (f) any vehicle within the premises or place.
- (2) A disinfection notice may—
- (a) specify the time within which the owner or person in charge or apparent control is required to comply with the notice;
 - (b) specify the manner in which the disinfection is to be carried out.

114 Offence

A person must not contravene any provision of a disinfection notice.

Penalty: In the case of a notice with respect to an exotic disease, 240 penalty units or 24 months imprisonment or both.

In any other case, 60 penalty units.

115 Treatment notice

- (1) An inspector who believes on reasonable grounds that any livestock is infected with a disease or that the livestock may become infected with a disease may by notice in writing to the owner or person in charge of the livestock require that person to submit them for any examination, biological test, vaccination, inoculation, or other treatment which the inspector considers necessary to prevent the introduction or spread of disease.
- (2) A person must not contravene any provision of a treatment notice under this section.

Penalty: In the case of a notice with respect to an exotic disease, 120 penalty units.

In any other case, 60 penalty units.

115A Identification notice

S. 115A
inserted by
No. 89/2001
s. 17.

- (1) An inspector who believes on reasonable grounds that any livestock is infected with a disease or that the livestock may become infected with a disease, by notice in writing to the owner or person in charge of the livestock, may require that person to—
- (a) tag or mark the livestock with identification of the livestock and the disease or suspected disease in the manner specified by the inspector in the notice; and
 - (b) ensure that the livestock remain tagged and marked in that manner in the circumstances specified by the inspector in the notice.
- (2) An inspector who believes on reasonable grounds that any livestock should be tagged, marked, branded or otherwise identified in accordance with section 9 or 9A, by notice in writing to the owner or person in charge of the livestock, may require that person to—
- (a) tag, mark, brand or identify the livestock in the manner specified by the inspector in the notice; and
 - (b) ensure that the livestock remain tagged, marked, branded or identified in that manner in the circumstances specified by the inspector in the notice.
- (3) A person must not contravene any provision of an identification notice under subsection (1).

Penalty: In the case of a notice with respect to an exotic disease, 120 penalty units.

In any other case, 60 penalty units.

s. 115B

S. 115A(4)
amended by
No. 35/2009
s. 96.

- (4) A person must not contravene any provision of an identification notice under subsection (2).

Penalty: 60 penalty units.

Division 3—Additional powers of inspectors for exotic diseases

S. 115B
inserted by
No. 35/2009
s. 97.

115B Inspectors powers in this Division are in addition to general powers

The powers that an inspector has under this Division in respect of exotic diseases are in addition to the general powers under Division 2 that the inspector may exercise in respect of those diseases.

116 Search and entry and other powers

- (1) For the purpose of exercising the powers of an inspector under this Act relating to exotic diseases, an inspector, with or without assistants, may do any of the following—
- (a) enter and search any premises or place other than a dwelling;
 - (b) with the consent of the occupier or in pursuance of a warrant, enter and search any dwelling;
 - (c) stop, board, enter, search or detain any vehicle;
 - (d) break open and search any box, container, package or receptacle (including any place that could be used as a receptacle);
 - (e) muster, inspect, count, examine, mark for identification, test, vaccinate, treat, disinfect or take samples from any livestock, livestock product, fodder or fitting or any item or receptacle;

-
- (f) stop the movement or order the movement or mustering of any livestock or livestock product, for the purpose of any inspection, examination, test, vaccination, treatment, disinfection or the taking of samples;
 - (g) remove or cause to be removed to another place any livestock, livestock product, fodder, fitting or vehicle or any item or receptacle;
 - (h) inspect, examine, test, disinfect, fumigate or take samples from any premises, place, area, fodder, fitting or vehicle;
 - (i) search for, track, mark for identification, test, treat, vaccinate or destroy any wildlife, undomesticated livestock, insects or vermin.
- (2) An inspector may, if in the opinion of that inspector it is necessary to do so, use reasonable force to restrain a person who is apparently acting contrary to a requirement of this Act relating to exotic diseases from so acting.

117 Notice requesting assistance

- (1) An inspector may by notice in writing direct an owner or person in charge or in apparent control of any premises, place or vehicle that the inspector reasonably suspects to be infected with an exotic disease to give such reasonable assistance specified in the notice as the inspector requires for the purpose of exercising the inspector's powers or performing the inspector's functions under this Act.
- (2) Without limiting subsection (1), a notice may direct the person to whom it is addressed to do any of the following—

-
- (a) vaccinate any livestock belonging to or under the control or in the charge of that person;
 - (b) muster any livestock belonging to or under the control or in the charge of that person;
 - (c) confine, within an escape-proof enclosure or cage approved by the inspector, any livestock belonging to or under the control or in the charge of that person;
 - (d) repair any fence, cage, netting, gate, yard, enclosure or container to render it escape-proof to the satisfaction of the inspector;
 - (e) provide any facilities, including yards and crushes, that the inspector requires to inspect, examine, treat, vaccinate or take samples from any livestock;
 - (f) muzzle any dog;
 - (g) disinfect himself or herself in a manner specified by the inspector before leaving any premises, place or vehicle.
- (3) A notice under this section—
- (a) must state the time within which the person to whom it is addressed is required to comply with the direction; and
 - (b) may specify the manner in which the direction is to be carried out.
- (4) A person must not neglect or fail to comply with a direction given under this section.

Penalty: 120 penalty units or 12 months imprisonment or both.

118 Power to obtain information

- (1) For the purpose of preventing, controlling or eradicating an exotic disease, an inspector may do any of the following—
 - (a) require a person to answer any question that the inspector reasonably believes may provide information bearing on the prevention, control or eradication of the disease;
 - (b) require a person to state the person's name and place of residence;
 - (c) require a person to produce any record or other document;
 - (d) inspect and take extracts from or copies of any record or other document.
- (2) Such a requirement is not duly made unless, at the time of making the requirement, the person of whom the requirement is made has been informed by the inspector that a refusal or failure to furnish the answer, record or document, as the case may be, constitutes an offence.
- (3) A person cannot decline to answer any question that the person has been required to answer, or to produce any record or other document that the person has been required to produce, on the ground that the answer, record or document might tend to incriminate the person.
- (4) If, before answering the question or producing the record or document, the person claims that the answer, record or document might tend to incriminate the person, then neither the question nor the answer, nor any record or document produced, is admissible in evidence against the person in any criminal proceedings other than proceedings relating to—

- (a) the refusal or failure to answer any question or produce any record or document; or
- (b) the furnishing of any answer, record or document that is false or misleading.

S. 119
(Heading)
inserted by
No. 35/2009
s. 98.

119 Power of seizure and impoundment

An inspector may seize and impound any livestock, livestock product, fodder or fitting, or any vehicle—

- (a) that is placed, exposed, moved, imported or sold contrary to a prohibition or restriction relating to exotic diseases imposed by or under this Act; or
- (b) which the inspector reasonably suspects to be infected with an exotic disease; or
- (c) which is astray in or near an area declared under Part 3 or at or near a place where there has been an outbreak of any exotic disease.

120 Seized livestock and property

- (1) If, in the opinion of an inspector, it is necessary to do so in order to avoid risk to life or property in connection with an exotic disease, the inspector may, with the approval of the Secretary, destroy any livestock or other thing seized under this Division.
- (2) If it is not thought necessary to destroy the livestock or other thing, it may be released by an inspector to anyone appearing to be lawfully entitled to it.

S. 120(2A)
inserted by
No. 35/2009
s. 99.

- (2A) Before the release of any livestock or thing, the inspector may take any measure he or she considers necessary to eliminate any risk associated with it.

-
- (3) At the time of release, the inspector may by order in writing require measures to be taken to eliminate any risk associated with it.
 - (4) Release may also be conditional on payment of any charges incurred, in accordance with the regulations, in connection with its impounding or other measures taken by an inspector.

121 Powers of entry with warrant

- (1) An inspector may apply to a magistrate for the issue of a search warrant in relation to—
 - (a) a specified dwelling; or
 - (b) any other specified land, place, premises or vehicle to which the inspector has been, or is likely to be, refused admission.
 - (2) A magistrate to whom such an application is made, if satisfied by evidence on oath or affidavit that it is reasonably necessary that the inspector should have access to the dwelling, premises, place, land or vehicle concerned for the purpose of exercising the inspector's powers or performing the inspector's functions under this Act, may issue a search warrant in accordance with the **Magistrates' Courts Act 1989**.
 - (3) A warrant under this section must specify a date not being later than one month from the date of issue upon which the warrant ceases to have effect.
 - (4) Before executing a search warrant, the inspector named in the warrant or a person assisting the inspector must announce that he or she is authorised by the warrant to enter the dwelling, premises, land, place or vehicle and give any person at the dwelling, premises, land, place or vehicle an opportunity to allow entry to the dwelling, premises, land, place or vehicle.
-

-
- (5) The inspector or a person assisting the inspector need not comply with subsection (4) if he or she believes on reasonable grounds that immediate entry is required to ensure—
- (a) the safety of any person; or
 - (b) the effective execution of the search warrant is not frustrated.
- (6) If the occupier or another person who apparently represents the occupier is present when a search warrant is being executed, the inspector must—
- (a) identify himself or herself to that person by producing his or her identity card for inspection by that person; and
 - (b) give to that person a copy of the execution copy of the warrant.

Division 4—Additional powers with respect to bees

122 Inspector may order hives to be cleaned

- (1) An inspector may order a beekeeper to clean and disinfect any hives, livestock products of bees, fittings or other articles that in the inspector's opinion are liable to spread any disease in the manner and within the time directed by the inspector.
- (2) If an inspector certifies to the Secretary in writing that an article referred to in subsection (1) should be destroyed, the inspector may by order in writing direct the beekeeper to destroy the article within the time that the inspector directs.
- (3) If the value of the article or articles to be destroyed exceeds \$3000, an order must not be made without the written approval of the Secretary.

123 Construction of hives

- (1) A person must not keep bees or permit bees to be kept in a hive—
 - (a) which does not have moveable frames which may be separately and readily removed from the hive to allow examination of the honeycomb;
 - (b) from which the honeycomb cannot be readily removed without cutting or tearing;
 - (c) which cannot be readily handled for inspection.
- (2) If, in the opinion of an inspector, any hive does not comply with subsection (1), the inspector may order—
 - (a) that the bees be transferred to another hive within any reasonable time that the inspector specifies in the order; or
 - (b) that the hive or any honeycomb or frame in the hive be adjusted as specified by the inspector within the time specified in the order.
- (3) If at the end of the time specified in the order, an inspector is satisfied that the directions in the order have not been complied with the inspector may, at the expense of the owner, cause the bees to be transferred or destroyed.
- (4) If the estimated expense under subsection (3) exceeds \$3000 the inspector must first obtain the approval of the Minister.

124 Direction to attend at hives

- (1) An inspector may by notice in writing to a beekeeper, require the beekeeper to attend at the beekeeper's hives at the time specified in the notice and remove or cause to be removed from any hive such frame or honeycomb as the inspector requires and facilitate the inspection of the hive by the inspector.
- (2) An inspector must give a beekeeper at least 7 days notice under subsection (1) unless the inspector has reasonable grounds for believing the hives are infected with disease and advises the beekeeper of those grounds.

125 Abandoned hives

- (1) If an inspector is satisfied on reasonable grounds that any bees, hives or fittings have been abandoned or are neglected the inspector may seize them and dispose of them in accordance with the regulations.
- (2) Any hives found on Crown lands in respect of which no bee farm licence, bee range area licence or apiary occupation right under the **Forests Act 1958** or the **Land Act 1958** is currently in existence or in any national park in respect of which no bee farm permit under the **National Parks Act 1975** is currently in existence shall be deemed to be abandoned for the purposes of this section.
- (3) An inspector must not dispose of hives bearing the registered brand of a beekeeper unless the inspector has given notice to the beekeeper of the inspector's intention to dispose of the hives and the beekeeper has had at least 7 days to claim the hives.

Division 5—Infringement notices

126 Power to serve a notice

- (1) If an inspector has reason to believe that a person has committed an offence against section 6(4), 9, 9A, 9B, 9C, 48(1), 51(1), 51(2), 94A, 94B, 95(1), 95A(1), 95B(1), 96B or 115A(4) of this Act or an offence against the regulations prescribed for the purposes of this section he or she may serve an infringement notice on that person.

S. 126(1) amended by Nos 73/1996 s. 44(a)(b), 89/2001 s. 18(a)(b), 84/2008 ss 29, 36, 35/2009 s. 100 (as amended by No. 36/2009 s. 5).

- (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. 126(2) substituted by No. 32/2006 s. 94(Sch. item 29(1)).

* * * * *

Ss 127, 128 repealed by No. 32/2006 s. 94(Sch. item 29(2)).

129 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 and must not exceed the penalty fixed by the Act for that offence.

S. 129 amended by No. 35/2009 s. 101.

* * * * *

Ss 130, 131 repealed by No. 32/2006 s. 94(Sch. item 29(2)).

Division 6—Provisions related to court proceedings

S. 132
(Heading)
inserted by
No. 68/2009
s. 97(Sch.
item 79.1).

132 Power to file charge-sheets under this Act

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

S. 132
amended by
No. 68/2009
s. 97(Sch.
item 79.2).

- (a) a member of the police force; or
- (b) an inspector appointed under section 108(1).

S. 132A
(Heading)
amended by
No. 68/2009
s. 97(Sch.
item 79.3).

132A Time for charging certain offences under this Act

Despite anything to the contrary in section 7(1) of the **Criminal Procedure Act 2009**, proceedings for any offence under section 7(1), 8, 10(1), 12(1), 12(2), 39(1) or 91 may be commenced within the period of three years after the date on which the alleged offence was committed.

S. 132A
inserted by
No. 35/2009
s. 102,
amended by
No. 68/2009
s. 97(Sch.
item 79.4).

133 Service of documents

Except where otherwise provided for in this Act, a 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 him or her personally; or
- (b) it is left at his or her last known address, 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 him or her by post.

134 Persons liable for offences

- (1) If 2 or more persons are responsible for the same offence against this Act each of those persons is liable to the penalty provided by this Act for that offence and the liability of each of them is independent of the liability of any other person.
- (2) If a body corporate is guilty of an offence against this Act any person who is concerned in or takes part in the management of that body corporate who knowingly authorised or permitted that contravention is also guilty of an offence and liable to a penalty for that offence.
- (3) If a person who is guilty of an offence is a partnership or an unincorporated body the reference to a person must 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.

S. 134(3)
amended by
No. 73/1996
s. 45.

Division 7—General

135 Suspicion of infection

- (1) For the purposes of this Act, any livestock, place or thing may reasonably be suspected of being infected with a disease if there is reason to think that an agent, pathogen or organism capable of causing a disease is present in or on the livestock, place or thing.
- (2) It is not necessary, in order to form a reasonable suspicion that livestock is infected with a disease for the livestock to be exhibiting signs of the disease.
- (3) Any livestock or thing, may for the purposes of this Act, be reasonably suspected of being infected with a disease if it is or has been in or with a flock, group or herd, or is travelling or has travelled on any land or place, or in a vehicle, in

which there was or is any livestock infected with a disease.

- (4) This section does not prejudice any other evidence or consideration by which an inspector or other person might reasonably suspect that any livestock, place or thing is infected with a disease.

136 Evidence of certain matters

- (1) A document appearing to be a copy of an instrument of appointment of an inspector, a licence, registration certificate, approval or agreement issued, granted or made 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 a licence, registration, approval or other authority 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.

137 Offences relating to enforcement

S. 137(1)
amended by
No. 35/2009
s. 103(2).

- (1) A person must not—

S. 137(1)(a)
substituted by
No. 35/2009
s. 103(1).

- (a) obstruct, hinder, threaten, abuse, insult, intimidate or attempt to obstruct or intimidate an inspector exercising his or her powers under this Act or the regulations; 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 to an inspector any information or answer that is false or misleading; or
 - (e) refuse to produce any livestock or livestock product, fodder or fitting when lawfully requested to do by an inspector; or
 - (f) being the owner of livestock, after being requested by an inspector fail to muster, yard and secure the owner's livestock and provide sufficient assistance for the inspection; or
 - (g) interfere with anything done by an inspector in the exercise of his or her powers under this Act or the regulations; or
 - (h) include in an application or request to the Secretary under this Act or the regulations a statement that he or she knows to be false or misleading in a material respect.

Penalty: 60 penalty units.

- (2) Despite anything to the contrary in subsection (1) 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.

138 Supreme Court—limitation of jurisdiction

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court entertaining actions of a kind referred to in sections 105(2) and 106.

s. 138A

S. 138A
inserted by
No. 57/2003
s. 9.

138A Supreme Court—limitation of jurisdiction

It is the intention of section 105(2) (as amended by section 7(2) of the **Livestock Disease Control (Amendment) Act 2003**) to alter or vary section 85 of the **Constitution Act 1975**.

PART 9—REGULATIONS

139 Regulations

(1) The Governor in Council may make regulations for or with respect to—

(a) regulating and fixing, for the purpose of preventing the introduction of disease into Victoria, the conditions upon which livestock may be introduced into Victoria;

(b) the inspection of livestock introduced into Victoria;

(ba) providing for the inspection or examination of livestock by persons handling livestock, the recording of the results of the inspection or examination by those persons together with any identification codes or numbers required by or under this Act to be tagged, marked or branded on the livestock or a device attached to or inserted in the livestock and the forwarding of those results and codes or numbers to the Secretary;

S. 139(1)(ba)
inserted by
No. 83/1998
s. 11,
amended by
No. 89/2001
s. 19(a).

(bb) the requirements for applying for authorisation under section 9C;

S. 139(1)(bb)
inserted by
No. 83/1998
s. 11.

(bc) requiring and providing for—

(i) the recording of information in the manner specified by the Secretary about the movement of livestock and the identification of the livestock (including identification required by section 9 or 9A); and

S. 139(1)(bc)
inserted by
No. 89/2001
s. 19(b).

S. 139(1)(bd)
inserted by
No. 89/2001
s. 19(b).

S. 139(1)(c)
amended by
No. 37/2000
s. 70(b).

-
- (ii) the forwarding of that information to the Secretary or a person nominated by the Secretary in the manner, or by the method of transmission, required by the Secretary;
- (bd) prohibiting or regulating the destruction or disposal of tags, marks, brands or other devices for identifying livestock for the purposes of section 9 or 9A;
- (c) prescribing the conditions and restrictions under which any milk from a cow, goat, sheep or buffalo to which section 45 applies may be sold, used or disposed of;
- (d) prohibiting or regulating the testing, vaccinating and inoculating of livestock and the use of any vaccine, serum or diagnostic agent;
- (e) procedures relating to the approval of sires for semen collection;
- (f) the prevention of the transmission of disease in the artificial breeding of livestock;
- (g) procedures for the valuation of any livestock, premises, livestock product, fodder, fittings or vehicle for the purposes of compensation;
- (h) any matter designed to prevent the introduction or spread of disease and to control and eradicate disease;
- (i) generally, any other 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 any person; and
 - (e) may apply, adopt or incorporate by reference any document either—
 - (i) as in force at the date of the regulations or at any date before then or as amended and in force from time to time; or
 - (ii) wholly or in part or as amended by the regulations; and
 - (f) may require any application, return or other document to be verified by statutory declaration;
 - (g) may impose penalties not exceeding 20 penalty units for any contravention of the regulations.
- (3) The regulations may be disallowed in whole or in part by resolution of either House of Parliament in accordance with the requirements of section 6(2) of the **Subordinate Legislation Act 1962**.
- (4) Disallowance under subsection (3) must be taken to be disallowance by Parliament for the purposes of the **Subordinate Legislation Act 1994**.
- S. 139(2)(e)(i) amended by No. 73/1996 s. 46.
- S. 139(2)(g) amended by No. 35/2009 s. 104.
- S. 139(4) amended by No. 73/1996 s. 48(d).

s. 143

PART 10—REPEALS, AMENDMENTS AND TRANSITIONAL PROVISIONS

Ss 140, 141
repealed by
No. 84/2008
s. 30.

* * * * *

S. 142
repealed by
No. 83/1998
s. 12(d).

* * * * *

143 Transitional provisions

- (1) Schedule 3 contains transitional provisions.
- (2) Nothing in Schedule 3 affects or takes away from the **Interpretation of Legislation Act 1984**.

S. 144
inserted by
No. 84/2001
s. 7.

144 Saving of records of cattle sales kept under Auction Sales Act 1958

- (1) This section applies to a person who—
 - (a) was a licensed auctioneer immediately before 1 January 2002; and
 - (b) is a person to whom section 94A(1) or (2) applies.
- (2) Subject to any regulations made for the purposes of section 94A or this section, a person to whom this section applies who kept a registry or book of cattle sales under section 35 of the **Auction Sales Act 1958** immediately before its repeal must keep that registry or book available for inspection under this Act and for that purpose section 94A applies as if that registry or book were a record required to be kept under that section.

**145 Transitional provision—Primary Industries
Legislation Amendment Act 2009**

S. 145
inserted by
No. 35/2009
s. 105.

Section 35(1) as amended by section 88 of the **Primary Industries Legislation Amendment Act 2009** does not apply to an importation order under section 32 in force immediately before the commencement of section 88 of that Act.

**146 Transitional provision—Primary Industries
Legislation Amendment Act 2009**

S. 146
inserted by
No. 35/2009
s. 105.

Despite the repeal of section 46 by section 90 of the **Primary Industries Legislation Amendment Act 2009**, any licence fee paid before the commencement of section 90 of that Act for a licence under section 46 that was in force immediately before that commencement is not refundable to the holder of that licence.

SCHEDULES

SCHEDULE 1

Sections 70, 79, 87

MEMBERSHIP AND PROCEDURE OF COMMITTEES

Sch. 1 cl. 1
amended by
No. 25/1997
s. 12.

1 Definition

In this Schedule—

Committee means—

- (a) the Apicultural Industry Advisory Committee; or
- (b) the Cattle Compensation Advisory Committee; or
- (c) the Swine Industry Projects Advisory Committee; or
- (d) the Sheep and Goat Industry Advisory Committee.

2 Terms of appointment

- (1) A member of a Committee holds office for a term, not exceeding 3 years, specified in the instrument of his or her appointment.
- (2) A member of a Committee is eligible for re-appointment.
- (3) The instrument of appointment of a member of a Committee may specify terms and conditions of appointment.

3 Remuneration

A member of a Committee who is not a full-time employee of the public service is entitled to receive the fees and travelling and other allowances from time to time fixed by the Minister in respect of that member.

Sch. 1 cl. 3
amended by
No. 46/1998
s. 7(Sch. 1).

4 Vacancies

The office of a member becomes vacant if—

- (a) the member becomes incapable of performing the functions of member;
- (b) the member resigns in writing delivered to the Minister;
- (c) the member is removed from office by the Minister;
- (d) the member becomes bankrupt;
- (e) the member is convicted of an indictable offence or of an offence which, if committed in Victoria, would be an indictable offence;
- (f) the member is absent from 3 consecutive meetings of the Committee without leave granted by the Minister.

Sch. 1 cl. 4
amended by
No. 73/1996
s. 48(e).

5 Application of Public Administration Act 2004

The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member of a Committee in respect of the office of member.

Sch. 1 cl. 5
amended by
No. 46/1998
s. 7(Sch. 1),
substituted by
Nos 108/2004
s. 117(1)
(Sch. 3
item 116.2),
80/2006
s. 26(Sch.
item 62).

6 Validity of decisions

An act or decision of a Committee is not invalid only because of—

- (a) a vacancy in the office of a member; or
- (b) a defect or irregularity in the appointment of a member.

7 Proceedings of Committee

Subject to this Act, the Committee may regulate its own proceedings.

Sch. 2
amended by
Nos 92/1995
s. 161(Sch. 2
item 3.2),
73/1996
s. 48(f)(g),
repealed by
No. 83/1998
s. 12(d).

* * * * *

SCHEDULE 3

TRANSITIONAL PROVISIONS

1 Former committee

On the commencement of this clause the Swine Industry Projects Advisory Committee is abolished and its members go out of office.

2 Former Trust Fund

Any money which was, immediately before the commencement of this clause, standing to the credit of the fund kept in the Public Account as part of the Trust Fund and known as the "Foot and Mouth Disease Eradication Fund" is on the commencement of this clause transferred to the Exotic Diseases Fund.

3 Licences, registrations and approvals

- (1) A licence in force under the **Stock (Artificial Breeding) Act 1962** or the **Stock Diseases Act 1968** immediately before the commencement of this clause continues as if granted under this Act for the balance of the licence period and may be renewed, revoked or suspended accordingly.
- (2) A registration in force under the **Bees Act 1971**, immediately before the commencement of this clause, continues as if granted under this Act for the balance of the registration period and may be renewed, revoked or suspended accordingly.
- (3) An approval of a sire in force under the **Stock (Artificial Breeding) Act 1962**, immediately before the commencement of this clause, continues as if granted under this Act for the balance of the period of approval and may be renewed, revoked or suspended accordingly.

- (4) Without limiting any other power to revoke a licence, registration or approval, the Secretary may serve on the licensee, or the holder of the registration or approval notice of cancellation of the licence, registration or approval referred to in this clause in order to enable a new licence, registration or approval to be issued under this Act.
- (5) A licence, registration or approval is revoked by force of this section on the 14th day after the date of service on the licensee or the holder of the approval or registration of notice under subclause (4).
-
-

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 15 November 1994

Legislative Council: 8 December 1994

The long title for the Bill for this Act was "A Bill to provide for the monitoring and control of livestock diseases and to provide compensation for losses caused by certain livestock diseases, to repeal the **Bees Act 1971**, the **Cattle Compensation Act 1967**, the **Stock (Artificial Breeding) Act 1962**, the **Stock Diseases Act 1968** and the **Swine Compensation Act 1967**, to amend the **Stamps Act 1958** and to make consequential amendments to various Acts and for other purposes."

Constitution Act 1975:

Section 85(5) statement:

Legislative Assembly: 15 November 1994

Legislative Council: 8 December 1994

Absolute majorities:

Legislative Assembly: 7 December 1994

Legislative Council: 14 December 1994

The **Livestock Disease Control Act 1994** was assented to on 20 December 1994 and came into operation as follows:

Sections 1, 2 on 20 December 1994: section 2(1); rest of Act (*except* sections 92(2), 93(2) and (4)) on 20 December 1995: section 2(3).

Section 93(2) and (4) never proclaimed, repealed by No. 84/2008 s. 35.

Section 92(2) on 1 July 2010: Government Gazette 17 June 2010 page 1221.

2. Table of Amendments

This Version incorporates amendments made to the **Livestock Disease Control Act 1994** by Acts and subordinate instruments.

Fisheries Act 1995, No. 92/1995

Assent Date: 5.12.95
Commencement Date: S. 161(Sch. 2 item 3) on 1.4.98: Government Gazette 26.2.98 p. 418
Current State: This information relates only to the provision/s amending the **Livestock Disease Control Act 1994**

Trustee and Trustee Companies (Amendment) Act 1995, No. 104/1995

Assent Date: 5.12.95
Commencement Date: 1.1.96: s.2
Current State: All of Act in operation

Miscellaneous Acts (Further Omnibus Amendments) Act 1996, No. 73/1996

Assent Date: 17.12.96
Commencement Date: Ss 31–48 on 17.12.96: s. 2(1)
Current State: This information relates only to the provision/s amending the **Livestock Disease Control Act 1994**

Livestock Disease Control (Amendment) Act 1997, No. 25/1997

Assent Date: 20.5.97
Commencement Date: Pt 1 (ss 1, 2) on 20.5.97: s. 2(1); rest of Act on 1.7.97: Government Gazette 26.6.97 p. 1432
Current State: All of Act in operation

Veterinary Practice Act 1997, No. 58/1997

Assent Date: 28.10.97
Commencement Date: S. 96(Sch. item 6) on 17.3.98: Government Gazette 12.3.98 p. 520
Current State: This information relates only to the provision/s amending the **Livestock Disease Control Act 1994**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Livestock Disease Control Act 1994**

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 53) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Livestock Disease Control Act 1994**

Livestock Disease Control Act 1994
No. 115 of 1994

Endnotes

Livestock Disease Control (Amendment) Act 1998, No. 83/1998

Assent Date: 17.11.98
Commencement Date: Ss 3, 5, 12 on 17.11.98: s. 2(1); ss 4, 11 on 1.4.99:
Government Gazette 1.4.99 p. 763; ss 6–10 on
30.6.99: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Livestock Disease Control Act 1994**

National Taxation Reform (Consequential Provisions) Act 2000, No. 6/2000

Assent Date: 11.4.00
Commencement Date: S. 35 on 12.4.00: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Livestock Disease Control Act 1994**

Dairy Act 2000, No. 37/2000

Assent Date: 6.6.00
Commencement Date: S. 70 on 30.9.00: Government Gazette 28.9.00 p. 2375
Current State: This information relates only to the provision/s
amending the **Livestock Disease Control Act 1994**

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 73.1) on 20.12.94: s. 2(2)(o);
s. 3(Sch. 1 item 73.2) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Livestock Disease Control Act 1994**

Duties Act 2000, No. 79/2000

Assent Date: 28.11.00
Commencement Date: S. 285(Sch. 1 item 3) on 1.7.01: s. 2
Current State: This information relates only to the provision/s
amending the **Livestock Disease Control Act 1994**

Auction Sales (Repeal) Act 2001, No. 84/2001

Assent Date: 11.12.01
Commencement Date: S. 7 on 1.1.02: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Livestock Disease Control Act 1994**

Livestock Disease Control (Amendment) Act 2001, No. 89/2001

Assent Date: 11.12.01
Commencement Date: Ss 4–14, 16–18(a), 19 on 1.1.02: Government Gazette
20.12.01 p. 3127; s. 18(b) on 1.7.02: s. 2(2); s. 15 on
23.5.03: Government Gazette 22.5.03 p. 1178
Current State: This information relates only to the provision/s
amending the **Livestock Disease Control Act 1994**

Fisheries (Amendment) Act 2003, No. 56/2003

Assent Date: 16.6.03
Commencement Date: S. 11(Sch. item 9) on 17.6.03: s. 2
Current State: This information relates only to the provision/s
amending the **Livestock Disease Control Act 1994**

Livestock Disease Control Act 1994
No. 115 of 1994

Endnotes

Livestock Disease Control (Amendment) Act 2003, No. 57/2003

Assent Date: 16.6.03
Commencement Date: Ss 3–9 on 17.6.03: s. 2
Current State: This information relates only to the provision/s amending the **Livestock Disease Control Act 1994**

Primary Industries Legislation (Further Miscellaneous Amendments) Act 2004, No. 69/2004

Assent Date: 19.10.04
Commencement Date: Ss 46, 47 on 20.10.04: s. 2(1)
Current State: This information relates only to the provision/s amending the **Livestock Disease Control Act 1994**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 116) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Livestock Disease Control Act 1994**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: S. 94(Sch. item 29) on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the **Livestock Disease Control Act 1994**

Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 62) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Livestock Disease Control Act 1994**

Livestock Disease Control Amendment Act 2007, No. 7/2007

Assent Date: 23.4.07
Commencement Date: Ss 3–5, 9 on 24.4.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Livestock Disease Control Act 1994**

State Taxation Acts Further Amendment Act 2008, No. 84/2008

Assent Date: 11.12.08
Commencement Date: Ss 22–30 on 1.1.09: s. 2(3); ss 31–34 on 1.7.09: s. 2(4); ss 35, 36 on 1.7.10: Government Gazette 17.6.10 p. 1221
Current State: This information relates only to the provision/s amending the **Livestock Disease Control Act 1994**

Primary Industries Legislation Amendment Act 2009, No. 35/2009 (as amended by No. 36/2009)

Assent Date: 30.6.09
Commencement Date: Ss 76–105 on 1.7.09: s. 2(1)
Current State: This information relates only to the provision/s amending the **Livestock Disease Control Act 1994**

Livestock Disease Control Act 1994
No. 115 of 1994

Endnotes

**Criminal Procedure Amendment (Consequential and Transitional Provisions)
Act 2009, No. 68/2009**

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 79) on 1.1.10: Government Gazette
10.12.09 p. 3215
Current State: This information relates only to the provision/s
amending the **Livestock Disease Control Act 1994**

3. Explanatory Details

No entries at date of publication.