

Stock (Seller Liability and Declarations) Bill

No.

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SCHEDULE

Offences For Which Infringement Notices May Be Issued

LEGISLATIVE ASSEMBLY

Read 1° 20 October 1993

(Brought in by Mr McGrath (Wimmera) and Mr Gude)

A BILL

to impose certain minimum conditions on the sale of stock and to establish a system of seller declarations as to the state of stock to be sold and for other purposes.

Stock (Seller Liability and Declarations) Act 1993

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purpose*

The purpose of this Act is—

- 5 (a) to require that certain species of stock be free of particular diseases and not be in particular conditions when sold; and

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984.**)

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- (b) to establish a system that will enable sellers of certain species of stock to declare that particular stock sold by them meet a specified description and that will enable buyers of stock to have confidence in those declarations; and 5
- (c) to protect and ensure the quality of livestock and livestock products for national and international markets.

2. Commencement

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent. 10
- (2) Subject to sub-section (3), the remaining provisions of this Act come into operation on a day to be proclaimed.
- (3) If a provision referred to sub-section (2) does not come into operation before 1 July 1994, it comes into operation on that day. 15

3. Definitions

- (1) In this Act—

“**meat inspector**” means a person appointed as an inspector under the **Meat Industry Act 1993** or who is an authorized officer under the Meat Inspection Act 1983 of the Commonwealth; 20

“**one-off declaration**” means a declaration to which section 12 (2) applies;

“**ongoing declaration**” means a declaration to which section 11 (2) applies; 25

“**prescribed**” means prescribed by the regulations;

“**relevant condition**” means any condition that is prescribed by the regulations as a condition that, for the purposes of Part 2, all stock of a particular species are not to be in at the time they are sold; 30

“**relevant disease**” means any disease that is prescribed by the regulations as a disease that, for

the purposes of Part 2, all stock of a particular species are to be free of at the time they are sold;

“**stock**” means any stock that is a member of—

(a) a species that is used for food or produces food products or fibre; or

(b) a species that is declared to be a species to which this Act applies by an Order of the Governor in Council made under section 4;

“**stock inspector**” means a person appointed as an inspector under section 25 or as an inspector of stock under the **Stock Diseases Act 1968**;

“**veterinarian**” means a veterinary surgeon registered under the **Veterinary Surgeons Act 1958**.

(2) A reference to the condition of an animal includes a state in which the body of the animal contains an object or a substance.

4. Governor in Council may apply this Act to any species of stock

The Governor in Council may, by Order published in the Government Gazette, declare any species of stock to be a species to which this Act applies.

PART 2—CONDITIONS OF SALE OF STOCK

5. Stock sold must meet minimum requirements

(1) It is a special condition of every agreement for the sale of prescribed stock that the stock is free from every relevant disease and is not in any relevant condition.

(2) Any term of an agreement that purports to exclude or vary this special condition is void.

(3) Despite sub-section (2) and anything else to the contrary in or under this Act, an agreement that contains a written acknowledgement signed by the buyer that stock—

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- (a) has a relevant disease or is in a relevant condition that is specified in the acknowledgement; or
- (b) may have a relevant disease or may be in a relevant condition that is specified in the acknowledgement—

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may exclude this special condition with respect to that disease or condition.

6. Consequences of breaching a section 5 condition

- (1) This section applies if stock is bought and, within the time specified by the regulations with respect to a relevant disease or condition—
 - (a) the buyer of the stock obtains a certificate from a stock inspector, meat inspector, veterinarian or prescribed analyst that states that the stock has that disease or condition; or
 - (b) the stock is slaughtered and a meat inspector totally condemns the carcass of the stock and issues a certificate that states that the condemnation resulted from the inspector's opinion that the stock had that disease or was in that condition at the time it was slaughtered; or
 - (c) the stock dies and the buyer obtains a certificate from a stock inspector, meat inspector, veterinarian or prescribed analyst that states that the stock had that disease or was in that condition at the time it died—

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and the buyer gives a copy of the certificate to the seller of the stock attached to a notice stating that the buyer is invoking this section.

- (2) The buyer is not liable to pay the seller any money that is still owing in respect of the sale of the stock.
- (3) The seller must, within 24 hours of receiving the notice, refund any money that has been paid to the seller by, or on behalf of, the buyer in respect of the sale of the stock.

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Penalty: 20 penalty units for a first offence;

50 penalty units for a second or subsequent offence.

- 5 (4) For the purposes of sub-section (1) (c), it is not necessary for the certificate to state that the death of the stock was caused, or contributed to, by the relevant disease or condition.

7. *Who owns stock that has been sold with a relevant disease or condition?*

- 10 (1) The seller may retake possession of any stock that is the subject of a notice under section 6 (1) within 7 days of receiving the notice if—

(a) the stock is still in the possession or under the control of the buyer; and

15 (b) the seller has refunded all the money paid by the buyer in respect of the stock.

- (2) If the seller does this, the ownership of the stock reverts to the seller (if the stock is not still owned by the seller) once the seller retakes possession of the stock.

- 20 (3) If the seller does not do this, the ownership of the stock remains with the buyer, or passes to the buyer at the end of the 7th day after the seller receives the notice (as the case may be).

- 25 (4) However, if a seller's failure to retake possession is caused by any action taken, or not taken, by the buyer that impedes any action taken by the seller to refund any money owed to the buyer or to retake possession of the stock, sub-section (3) does not apply and the ownership of the stock reverts to the seller (if the stock is not still owned by the seller) at the end of the 7th day after the seller receives the notice.

- 30 (5) In this section a reference to stock is a reference to the carcass of the stock, and any product derived from the carcass of the stock, if the stock is dead.

8. Buyer may renounce ownership of stock

- (1) A buyer may renounce the ownership of any stock or carcass that is the subject of a notice under section 6 (1) by making a statement to that effect in the notice.
- (2) If the buyer does this, the ownership of the stock or carcass reverts to the seller on the seller receiving the notice. 5
- (3) Section 7 (3) has no effect if a buyer renounces ownership under this section.

9. Consequences of breaching a section 5 condition if carcass of stock partially condemned

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- (1) This section applies if—
 - (a) a meat inspector—
 - (i) partially condemns the carcass; or
 - (ii) downgrades the carcass; or 15
 - (iii) wholly or partially condemns or downgrades any product derived from the carcass—
 - of any stock that has been slaughtered within the time specified by the regulations with respect to the relevant disease or condition that caused the condemnation or downgrading; and 20
 - (b) the inspector issues a certificate that states that the condemnation or downgrading resulted from the inspector’s opinion that the stock had a relevant disease or was in a relevant condition at the time it was slaughtered; and 25
 - (c) the buyer of the stock gives a copy of the certificate to the seller of the stock attached to a notice stating that the buyer is invoking this section. 30
- (2) On receiving the notice the seller is liable to pay the buyer the amount set out in the regulations as the damages to be paid in respect of carcasses or products with the relevant disease or condition.

(3) The buyer may offset any amount the buyer is entitled to under sub-section (2) against any amount the buyer owes the seller in respect of the purchase of any stock or carcass.

5 (4) If the seller is still liable to pay the buyer an amount under this section once all possible offsets have been taken into account, the seller must pay the amount to the buyer within 24 hours of receiving a written demand that specifies the amount owing and how it was calculated.

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Penalty for breaching this sub-section: 20 penalty units for a first offence; 50 penalty units for a second or subsequent offence.

10. *Limitation of effect of section 5 special condition*

15 Subject to any rights conferred on a buyer by any law other than this Act, the rights given to a buyer by sections 6, 7, 8 and 9 are the only rights the buyer may exercise in relation to a failure by a seller to comply with the special condition set out in section 5.

20 **PART 3—DECLARATIONS BY SELLERS AS TO QUALITY OF STOCK**

11. *Seller may make an ongoing declaration as to quality*

(1) This section applies if—

25 (a) a person who intends to sell stock of a particular species declares that all stock of that species sold by the person during the period set out in the declaration that are marked in a way described in the declaration—

30 (i) will be, or will not be, in a certain condition described in the regulations for the purposes of this Part; or

(ii) will have, or will not have, certain characteristics described in the regulations for the purposes of this Part; and

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- (b) the person makes the declaration in writing in the prescribed form and signs it; and
 - (c) the person registers the declaration with the Secretary of the Department.
- (2) The person must ensure that all stock marked in a way described in the declaration that the person sells during the period set out in the declaration complies with the declaration. 5
- Penalty: 50 penalty units for a first offence;
- 100 penalty units for a second or subsequent offence. 10

12. Seller may make a one-off declaration as to quality

- (1) This section applies if—
- (a) a person who intends to sell particular stock declares that all that stock— 15
 - (i) are, or are not, in a certain condition described in the regulations for the purposes of this Part; or
 - (ii) have, or do not have, certain characteristics described in the regulations for the purposes of this Part; and 20
 - (b) the person makes the declaration in writing in the prescribed form and signs it; and
 - (c) the person sells the stock; and
 - (d) the declaration is delivered to the buyer of the stock or to the buyer's agent (either before or after the sale). 25
- (2) The person must ensure that all stock in respect of which the declaration is made that is sold to the buyer complies with the declaration. 30
- Penalty: 50 penalty units for a first offence;
- 100 penalty units for a second or subsequent offence.

13. *Consequences of breaching a declaration*

- (1) This section applies if a buyer—
- (a) buys stock which is the subject of an ongoing or one-off declaration; and
 - (b) obtains, within the time specified by the regulations with respect to a condition or characteristic, a certificate from a stock inspector, meat inspector, veterinarian or prescribed analyst that states that the stock is in a state that is not in accord with the declaration (or was in such a state at the time it died or was slaughtered); and
 - (c) gives a copy of the certificate to the seller of the stock attached to a notice stating that the buyer is invoking this section.
- (2) On receiving the notice the seller is liable to pay the buyer the amount set out in the regulations as the damages to be paid in respect of stock in the state detailed in the certificate.
- (3) The buyer may offset any amount the buyer is entitled to under sub-section (2) against any amount the buyer owes the seller in respect of the purchase of any stock or carcass.
- (4) If the seller is still liable to pay the buyer an amount under this section once all possible offsets have been taken into account, the seller must pay the amount to the buyer within 24 hours of receiving a written demand that specifies the amount owing and how it was calculated.
- Penalty for breaching this sub-section: 20 penalty units for a first offence; 50 penalty units for a second or subsequent offence.

14. *Withdrawal of an ongoing declaration*

- (1) A person who has made an ongoing declaration may withdraw the declaration at any time by filing a notice of withdrawal with the Secretary of the Department.

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- (2) A notice of withdrawal must be in the form required by the regulations and must be signed by the person who made the declaration.
- (3) The Secretary may refuse to accept for filing a notice of withdrawal if the request for filing is not accompanied by the required fee. 5
- (4) A declaration ceases to have effect 90 days after the date a notice of withdrawal made in respect of the declaration is accepted for filing by the Secretary.
- (5) Sections 11 (2) and 13 do not apply in respect of any stock sold after a declaration ceases to have effect. 10
- (6) If negotiations concerning the sale of stock were begun with a prospective buyer of the stock before a declaration ceased to have effect as the result of the operation of sub-section (4) and the prospective buyer in fact buys the stock, sections 11 (2) and 13 continue to apply to the sale even though the sale occurred after the declaration ceased to have effect. 15
- (7) Sub-section (6) does not apply if the seller of the stock gave the buyer a copy of the notice of withdrawal before the sale was made. 20

15. Register of ongoing declarations

- (1) The Secretary of the Department must ensure that a register is kept of all ongoing declarations registered by the Secretary. 25
- (2) The register must show—
- (a) the name and address of the person making the declaration; and
 - (b) the date the declaration was registered; and
 - (c) the date the declaration will expire; and 30
 - (d) the contents of the declaration; and
 - (e) whether a notice of withdrawal of the declaration has been filed; and

- (f) if a notice of withdrawal of the declaration has been filed, the date the declaration is to cease to have effect.

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16. *Right of Secretary to refuse to register ongoing declarations*

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- (1) The Secretary of the Department may refuse to register an ongoing declaration if—
- (a) the person making the declaration has been convicted of an offence against section 11 or 12 within the 3 years immediately before the date the registration is requested; or
 - (b) the Secretary has reasonable grounds for believing that the person making the declaration will be unable to comply with any undertaking made in the declaration; or
 - (c) the request for registration is not accompanied by the required fee.
- (2) In deciding whether to refuse registration on the ground set out in sub-section (1) (a), the Secretary must have regard to the seriousness of the offence.
- (3) The Secretary must give any person refused registration under this section written reasons why the request for registration was refused.
- (4) The reasons must be given to the person within 14 days of the refusal.

17. *Right of Secretary to remove an ongoing declaration from the register*

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- (1) The Secretary of the Department may remove an ongoing declaration from the register if the Secretary is satisfied—
- (a) that the person who made the declaration will be unable to comply with any undertaking made in the declaration; or

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- (b) that the person who made the declaration has breached an undertaking made in the declaration; or
 - (c) that the continued existence of the declaration on the register may cause damage to the Victorian or Australian livestock industry or any segment of that industry. 5
- (2) The Secretary must give any person whose ongoing declaration has been removed from the register written reasons why the declaration was removed. 10
- (3) The reasons must be given to the person within 14 days of the removal.

18. Register may be inspected

The Secretary of the Department must permit any person who has paid the required inspection fee (if any) to inspect the register of ongoing declarations and to make copies of anything on the register. 15

PART 4—DISPUTES**19. Seller must presume certificates valid**

- (1) A seller who has been given a copy of a certificate under section 6 (1), 9 (1) or 13 (1) must presume for the purposes of sections 6, 9 and 13 respectively— 20
- (a) that any statement made in the certificate concerning the state of any stock or carcass is accurate; and 25
 - (b) that the person who issued the certificate is the person, and has the qualifications, claimed on the certificate.
- (2) It is not a defence to a charge under section 6 (3), 9 (4) or 13 (4)— 30
- (a) that the seller believed, or could show, that the certificate on which a notice under that section was based was inaccurate; or
 - (b) that the seller had made an application under section 20. 35

20. Procedure if a seller wishes to dispute the accuracy of a certificate

- 5 (1) If a seller who has received a notice under section 6, 9 or 13 disputes the accuracy of the certificate on which the notice is based, the seller may apply to the Magistrates' Court for a declaration under this section.
- (2) A magistrate may declare that a certificate is defective if—
- 10 (a) both the seller and buyer have been given a chance to be heard; and
- (b) the magistrate is satisfied that the certificate—
- 15 (i) contains a material inaccuracy that casts substantial doubt on whether the stock or carcass to which the certificate relates is, or was, in the state detailed in the certificate; or
- (ii) was based on the results of a test that was not properly conducted, or that was not conducted in accordance with any relevant regulations; or
- 20 (iii) was issued by a person who was not at the time the certificate was issued a stock inspector, meat inspector, veterinarian or prescribed analyst.
- 25 (3) If a seller who has obtained a declaration under this section serves a copy of the order containing the declaration on the buyer, the buyer must refund to the seller any money that the seller paid to the buyer under section 6, 9 or 13 (as the case may be) in respect of any stock to which the certificate relates within 24 hours of receiving the copy of the order.
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Penalty: 20 penalty units for a first offence;
50 penalty units for a second or subsequent offence.

- 35 (4) On the buyer refunding the money, the ownership of the stock or carcass remains with, or reverts to, (as the case may be) the person who would have been the owner of the stock or carcass under the sale agreement if no action had been taken under section 6, 9 or 13.

21. Procedure if seller disputes the amount claimed by buyer

(1) If a seller who has received a written demand under section 9 (4) or 13 (4) disputes the amount claimed, the seller may apply to the Magistrates' Court for a declaration under this section. 5

(2) After giving both the seller and buyer a chance to be heard, if a magistrate is satisfied that the amount claimed is excessive, he or she may make a declaration stating that fact and may determine the amount that should have been claimed. 10

(3) If the seller still owes the buyer an amount of money under this Act once a determination has been made, the seller must pay the buyer that amount within 24 hours of the determination being made by the magistrate.

Penalty: 20 penalty units for a first offence; 15
50 penalty units for a second or subsequent offence.

22. Defence to claim by buyer if amount claimed excessive

It is a defence to a charge under section 9 (4) or 13 (4) if, within 24 hours of the seller receiving a written demand under that section, the seller gives the buyer— 20

(a) a written notice stating that the seller disputes the amount claimed and setting out the amount the seller believes should have been claimed and how that amount was calculated; and 25

(b) the amount (if any) that on the seller's calculation is still owed to the buyer by the seller¹.

PART 5—ADMINISTRATIVE AND ENFORCEMENT PROVISIONS**23. Secretary may delegate powers and functions** 30

(1) The Secretary of the Department may delegate any of the functions or powers given to him or her by this Act (except this power of delegation) to any officer of the Department.

- (2) A delegation must be made in writing and may identify the officer by name or by office.

24. *Secretary may set fees*

- (1) The Secretary of the Department may, by notice published in the Government Gazette, set the fees that are to be paid for—
- (a) the registration and withdrawal of ongoing declarations;
 - (b) the inspection of the register of ongoing declarations;
 - (c) the issue of certificates concerning the contents of the register.
- (2) In setting registration fees, the Secretary may impose annual fees, or different fees having regard to the period a declaration is to apply for or the conditions or characteristics in respect of which the declaration is made.

25. *Appointment of inspectors*

- (1) Inspectors may be appointed from time to time for the purposes of this Act.
- (2) The Secretary of the Department must provide every inspector under this Act who is not a meat inspector or an inspector appointed under the **Stock Diseases Act 1968** with a certificate of identification.

26. *Power of inspectors to enter property to enforce this Act*

- (1) A magistrate may issue a warrant to a stock inspector in respect of a property that is, or has been, used for the production or holding of stock intended for sale.
- (2) A magistrate may only issue the warrant if he or she is satisfied that it is reasonable for the stock inspector applying for the warrant to have access to the property to check—

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- (a) whether the practices carried out on the property in the production or holding of stock are consistent with any ongoing or one-off declaration made by the owner of the stock or the occupier of the property; or 5
 - (b) whether stock on the property that are marked, or that are to be marked, in a way set out in an ongoing declaration are in a condition that is consistent with that declaration; or
 - (c) whether there are things on the property that are relevant to determining whether any undertaking made in an ongoing or one-off declaration has been complied with; or 10
 - (d) whether the requirements of the regulations have been complied with. 15
- (3) A warrant authorises the stock inspector to whom it has been issued to enter the property in respect of which it is issued and to use any assistance and force that may be reasonably necessary for that purpose.
- (4) A warrant has no force unless it is signed by the magistrate who issued it and there is stated on it— 20
- (a) the address of the property in respect of which it has been issued; and
 - (b) the name of the person to whom it has been issued and the purpose for which it was issued; and 25
 - (c) the times of the day or night during which it may be executed; and
 - (d) the days of the week on which it may be executed; and
 - (e) the date on which it expires. 30
- (5) The expiry date fixed by the magistrate must be a date that is within 30 days of the date the warrant was issued.

27. Powers of person holding a warrant

- (1) A stock inspector who enters a property under the authority of a warrant issued under this Act may— 35

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- (a) inspect the property and all stock, plant and facilities on the property; and
- (b) require any person found on the premises to state in full his or her name and the address of his or her place of residence and, if it is reasonably suspected that the name or address stated is not correct, to produce any document the person is carrying that contains his or her name or address; and
- 10 (c) require the immediate production of articles used in the production or holding of stock; and
- (d) break open any locked container or room that the person in charge of the premises will not open.
- 15 (2) Before exercising a power under this section or section 26 (3), the stock inspector must produce the warrant for inspection if asked to do so by any person on the property.
- (3) Before requiring a person to state his or her name and address, the stock inspector must—
- 20 (a) produce identification and permit it to be inspected by the person; and
- (b) inform the person that the requirement is being made under this section; and
- 25 (c) state the reason why the requirement is being made.
- (4) In exercising his or her powers under this section, a stock inspector may use the assistance of a police officer.

28. *Offences concerning the execution of warrants*

- 30 (1) A person must not obstruct or hinder another person who is lawfully exercising a power given to the person by section 26 (3) or 27 (1) (a) or (d).
Penalty: 20 penalty units.
- 35 (2) A person must comply with any requirement lawfully made under section 27 (1) (b) or (c).
Penalty: 5 penalty units.

29. *Infringement notice*

- (1) A stock inspector may serve an infringement notice on any person that the inspector has reason to believe has committed an offence listed in the Schedule.
- (2) The infringement notice must be in a form approved by the Minister and must set out a brief description of the offence, the penalty for the offence set out in the Schedule, the place where the penalty may be paid and the time within which the penalty may be paid.

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30. *Withdrawal of infringement notice*

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- (1) The Secretary of the Department may withdraw an infringement notice at any time within 28 days after the notice is served by serving a withdrawal notice on the person on whom the infringement notice was served.
- (2) If the person has paid the penalty sought in the infringement notice before the notice is withdrawn, the Secretary must refund the amount of the penalty on withdrawing the notice.
- (3) Proceedings for the offence in respect of which an infringement notice has been served may still be taken or continued despite the withdrawal of the notice.

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31. *Further proceedings concerning infringement notices*

- (1) Subject to section 30, if the penalty sought in an infringement notice is paid at the place and within the time specified in the notice or, if the Secretary allows, before a summons is served in respect of the offence—
- (a) no further proceedings concerning the offence may be taken against the person on whom the notice was served; and
- (b) no conviction is to be recorded against that person for the offence.
- (2) All penalties paid under an infringement notice must be applied in the same way as if the person on whom the infringement notice was served had been convicted

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of the offence in the Magistrates' Court on a charge filed by the Secretary.

5 (3) If proceedings are taken against a person in respect of an offence for which an infringement notice was served on the person and a court finds the person guilty of the offence, the finding is not to be taken as a conviction for any purpose except—

(a) the making of the finding itself; and

10 (b) any later proceedings that may be taken in respect of the finding itself (including proceedings by way of appeal or review).

(4) Sub-section (3) does not apply to proceedings taken after the withdrawal of an infringement notice.

15 **32. *Only stock inspectors may bring prosecutions under this Act***

(1) A prosecution for an offence under this Act may only be brought by a stock inspector.

20 (2) A prosecution for an offence under this Act may only be conducted by a stock inspector or by a barrister and solicitor of the Supreme Court of Victoria briefed by a stock inspector to conduct the prosecution.

(3) Proceedings started by a stock inspector may be taken over and continued at any time by any other stock inspector.

25 **PART 6—MISCELLANEOUS PROVISIONS**

33. *Certificates as to contents of register are evidence*

30 (1) A certificate certifying any matter relating to the contents of the register of ongoing declarations and purporting to be signed by the Secretary of the Department or the officer responsible for the keeping of the register is admissible in any proceedings as evidence of the matters appearing in the certificate.

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(2) All courts and people authorised by law or the consent of parties to receive evidence must take judicial notice of—

(a) the signature of a person who is, or was, the Secretary or the officer in charge of the register of ongoing declarations; and

(b) the fact that that person is, or was, the Secretary or officer in charge.

34. *How presence of disease or condition may be established*

Proof that stock, or a sample taken from stock or the carcass of any stock, has reacted in a prescribed way in the course of a prescribed test for a disease or condition is, in the absence of evidence to the contrary, proof of the existence of the disease or condition in the stock or carcass for the purposes of this Act.

35. *How cost of stock sold as part of a lot to be determined*

If 2 or more head of stock are sold as a lot in a way that makes it impossible to determine the sale price of each head of stock, for the purposes of this Act the sale price of each head of stock in the sale is the total price of the lot divided by the number of stock in the lot.

36. *Recovery of amounts owed*

Any amount that is owed to a person under this Act may be recovered as a debt due and payable to the person entitled to it in any court of competent jurisdiction.

37. *Rights conferred by this Act additional to other rights*

The rights conferred on a buyer by Parts 2 and 3 are in addition to any other rights the buyer may have in respect of an agreement for the sale of stock.

38. Regulations

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

5 (a) prescribing diseases for the purposes of Part 2 that all stock of a particular species that are sold must be free of, and prescribing that species;

(b) prescribing conditions for the purposes of Part 2 that all stock of a particular species that are sold are not to be in, and prescribing that species;

10 (c) prescribing for each relevant disease or condition the period after sale in which the obtaining and service of an appropriate certificate will enable a buyer to invoke section 6;

15 (d) prescribing for each relevant disease or condition the period after sale in which the slaughtering of any stock will enable a buyer to invoke section 9;

20 (e) prescribing the damages to be paid by a buyer to a seller under section 9 with respect to each relevant disease or condition that results in the downgrading or partial condemnation of a carcass or in the total or partial condemnation or downgrading of a product derived from a carcass;

25 (f) prescribing, for the purposes of this Part, that if stock was sold as part of a lot and any of that stock, or any of the carcasses or products derived from the carcasses of that stock, is found to have a relevant disease or to be in a relevant condition, all the other stock in the lot (or their carcasses or products, as the case may be) are to be regarded as having that disease and as being in that condition;

30 (g) prescribing conditions and characteristics for the purposes of Part 3 that may be made the subject of ongoing and one-off declarations under that Part and regulating who may make declarations under that Part;

35 (h) requiring any person who makes an ongoing or one-off declaration to mark or identify stock to which the declaration applies in a particular way;

Stock (Seller Liability and Declarations)

- (i) regulating the use of any objects or markings used to identify stock as stock being in, or not being in, a condition or as stock having, or not having, a characteristic prescribed under paragraph (g); and
 - (j) prescribing for each condition or characteristic prescribed under paragraph (g) the period after sale in which the obtaining and service of an appropriate certificate will enable a buyer to invoke section 13; and 5
 - (k) prescribing the damages to be paid by a buyer to a seller under section 13 with respect to each condition or characteristic prescribed under paragraph (g); and 10
 - (l) prescribing, for the purposes of section 13, that if stock was sold as part of a lot and any of that stock, or any of the carcasses or products derived from the carcasses of that stock, is found to be in a state that is not in accord with the ongoing or one-off declaration that applies to that stock, all the other stock in the lot (or their carcasses or products, as the case may be) are to be regarded as being in that state; 15 20
 - (m) prescribing which analysts or classes of analyst may produce certificates for the purposes of this Act; and 25
 - (n) prescribing what tests may be used to determine whether any stock or carcass has a particular disease or is in a particular condition and how the results of those tests are to be interpreted; and
 - (o) prescribing how tests to determine the presence or absence of anything relevant to this Act are to be conducted; and 30
 - (p) prescribing fees for the purposes of this Act; and
 - (q) prescribing forms for the purposes of this Act;
 - (r) generally prescribing 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. 35
- (2) Damages prescribed under sub-section (1) (e) or (k)—

(a) must not exceed the amount for which the stock was sold;

(b) may be expressed as a percentage of the sale price of the stock, as a fixed amount or as a combination of percentages and fixed amounts.

(3) The regulations may create offences and may impose a penalty of up to 10 penalty units for any offence created.

(4) The regulations—

(a) may be of limited or general application; and

(b) may differ according to differences in time, place, species or circumstance.

SCHEDULE**Offences For Which Infringement Notices May Be Issued**

<i>Offence</i>	<i>Penalty</i>
1. An offence under section 6 (3)	\$300
2. An offence under section 9 (4)	\$300
3. An offence under section 11 (2)	\$300
4. An offence under section 12 (2)	\$300
5. An offence under section 13 (4)	\$300
6. An offence under section 20 (3)	\$300
7. An offence under section 21 (3)	\$300
8. An offence under the regulations	\$300

FOOTNOTE

1. If this defence is used, it is still open to a buyer to bring an action under section 9 (2) or 13 (2) for any amount the buyer believes the seller still owes—see section 36.

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