

**REVIEW OF THE**  
***LIVESTOCK ACT 1997***

**DISCUSSION PAPER**

**August 2009**



**Government of South Australia**  

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**Primary Industries and Resources SA**

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# INTRODUCTION

## A Summary of the *Livestock Act 1997*

The *Livestock Act 1997* came into operation in January 1998 and represented the consolidation of eight Acts relating to the health of livestock in South Australia.

The Act incorporates support for a number of important national agreements, for example the National Livestock Identification Scheme (NLIS) and the national agreements on the control of and funding for exotic diseases, ensuring that South Australia is in harmony with livestock legislation enacted elsewhere in Australia.

The Act provides for registration requirements in relation to the keeping of livestock, to ensure fast and effective tracing of livestock in the event of the detection of an emergency animal disease. There are also registration requirements in relation to artificial breeding centres and veterinary diagnostic laboratories. These requirements ensure that the highest possible standards are complied with for the protection and benefit of the State's livestock industries.

The Act provides the Government with the ability to investigate and control any disease or contaminate that may impact on the health of livestock or native or feral animals or, the marketability of livestock or livestock products.

The Act also provides for the establishment of livestock advisory groups, which advise the Minister directly on matters affecting the sectors that they represent. Currently there are seven advisory groups (sheep, cattle, pigs, goats, deer, alpaca and horses). These groups have greatly assisted the government in developing appropriate policy for these particular sectors of the agricultural industries. The advisory groups representing those industry sectors that have Funds established under the *Primary Industry Funding Schemes Act 1998* also act as the consultative committee for the respective Funds, providing advice to the Minister in relation to the administration of the Funds.

Good governance requires continual legislative review to ensure that the regulatory framework meets the needs of the community without stifling endeavour or putting at risk the enviable health status of our livestock industries. After 10 years it is recognised that this relatively contemporary piece of legislation can be improved with "fine tuning" certain existing provisions, removing obsolete or unnecessary provisions and including new provisions that will give the livestock owning communities greater say in how animal health related diseases and issues are dealt with.

It should be noted that the framework for cost recovery for certain activities is being introduced so as to provide for continued and improved regulatory services in areas of significant private benefit. It is intended to recover costs in the apiary sector where a significant amount of taxpayer and industry funds are used to clean up neglected and abandoned hives and hive material. Cost recovery for allocation of a Property Identification Code (PIC) to all properties with livestock will also be introduced. The PIC is an essential component of the NLIS and provided vital information about livestock properties for use in disease emergencies and natural disasters.

## Objective of this Discussion Paper

The Government is seeking comment from stakeholders on the proposed amendments to the Act.

The purpose of this document is to provide an overview of the proposed amendments and to invite public comment on the suitability of the amendments to meet the needs of the State's livestock industries.

As a result of this consultation it is anticipated that the amendments will be incorporated into new legislation and regulation.

## How to make a Submission

Submissions, which must be in writing, should be addressed to the **Livestock Act Review** and either:

posted to:	<b>PIRSA Biosecurity - Animal Health</b> <b>GPO Box 1671</b> <b>Adelaide SA 5001</b>
faxed to:	<b>(08) 8207 7852</b>
or emailed to:	<a href="mailto:mark.langman@sa.gov.au"><u>mark.langman@sa.gov.au</u></a>

Whilst specific issues are raised in this discussion paper, you can comment on any issue you believe is pertinent to the Act.

**Submissions will be accepted up to 5.00 pm on Friday, 30 October 2009.**

Questions or comments about the review can be directed to Mr Mark Langman, Snr. Adviser, Legislation & Policy, in the PIRSA Biosecurity Division by telephone (08 8207 7971) or email ([mark.langman@sa.gov.au](mailto:mark.langman@sa.gov.au)).

# PROPOSED AMENDMENTS

## Livestock Act 1997 – Part 1 – Preliminary

### Section 3 – Interpretation

#### 1. Introduce the concept of controlled notifiable conditions

Currently the Act provides the power for the Minister to declare a disease to be a notifiable disease and a concentration of contaminant in body tissues or secretions of livestock to be a notifiable contaminant.

#### 4—Interpretation—notifiable condition and exotic disease

- (1) The Minister may, by notice in the Gazette, declare—
  - (a) a disease to be a **notifiable disease** in relation to a class of livestock;
  - (b) a concentration of contaminant in body tissues or secretions of livestock to be a **notifiable contaminant** in relation to a class of livestock.
- (2) The Minister may, by the same or a subsequent notice in the Gazette, designate a specified notifiable disease as an **exotic disease**.
- (3) A **notifiable condition** is a notifiable disease or a notifiable contaminant (and includes an exotic disease).

The Act provides for a number of conditions or requirements in relation to “notifiable conditions”. For example, section 29 prohibits the introduction of a notifiable disease into the State without the approval of the Chief Inspector. Section 30 prohibits the movement of livestock or livestock products affected or suspected of being affected with a notifiable condition without the approval of the Chief Inspector. Similarly, section 31 prohibits the sale or supply of livestock or livestock products affected with a notifiable condition, without the approval of the Chief Inspector.

There are certain diseases, which for export purposes Government authorities are required to collect data so as to facilitate the export of livestock or livestock product. Unless there is mandatory reporting of the presence of such diseases, the authorities are not able to provide accurate or meaning information to our trading partners. However, for many such diseases (e.g. Leptospirosis, toxoplasmosis, campylobacteriosis or trichomonisais) neither the industry nor government wishes to regulate the diseases.

It is proposed that there be two categories of notification – **Controlled notifiable** for which the existing provisions of the Act apply (i.e. movement controls) and **Notifiable** – diseases for which notification is required, but no action is taken and there are no particular restrictions in place unless by specific regulation.

## **2. Interpretation of livestock being affected or suspected of being affected with a disease or contaminant**

The current interpretation prescribes the conditions under which livestock are considered to be affected or suspected of being affected with a disease or contaminant.

### **5—Interpretation—livestock etc affected or suspected of being affected with a disease or contaminant**

- (1) Livestock are affected with a disease or contaminant if—
  - (a) they are suffering from or affected with the disease; or
  - (b) they contain the contaminant in their body tissues or secretions.
- (2) Livestock products are affected with a disease or contaminant if—
  - (a) they have come from livestock affected with the disease or contaminant; or
  - (b) they have subsequently become contaminated with the disease or contaminant.
- (3) Land is affected with a disease or contaminant if the land, or any water or vegetation on the land, contains or produces a substance capable of causing livestock that consume it or come into contact with it to become affected with the disease or contaminant.
- (4) Other property is affected with a disease or contaminant if the property contains or produces a substance capable of causing livestock that consume it or come into contact with it to become affected with the disease or contaminant.
- (5) There is reason to suspect that livestock of a class susceptible to a disease are affected with the disease if—
  - (a) they have, during a prescribed period—
    - (i) been pastured or kept together with other livestock on the same holding; or
    - (ii) been transported with other livestock in the same vehicle, vessel or aircraft; or
    - (iii) been kept together with other livestock in the same group; and
  - (b) those other livestock are affected with the disease, or there is reason to suspect that the other livestock are affected with the disease.
- (6) There is reason to suspect that livestock are affected with a contaminant if—
  - (a) they have, during a prescribed period—
    - (i) been pastured or kept together with other livestock on the same holding; or
    - (ii) been kept together with other livestock in the same group; and

- (b) those other livestock are affected with the contaminant, or there is reason to suspect that the other livestock are affected with the contaminant.
- (7) For the purposes of this section, a **prescribed period** is a period specified by the Minister by notice in the Gazette.

In certain circumstances, this definition may not fit well with particular disease control programs and may not take into consideration the nature of certain diseases. For example, it might be agreed nationally between industry bodies and animal health authorities, when developing an agreed disease control program, that livestock in a particular situation should be considered “suspect” in relation to the disease when they share a common boundary fence – even though they might not share the same pasture. The above current interpretation does not cater for this.

It is proposed that the existing interpretation is kept and included will be the opportunity for the Chief Inspector to recommend and the Minister to approve specific definitions (in relation to what constitutes “suspicion” of a disease being present) for specific diseases under which a disease control program would operate.

## **Livestock Act 1997 – Part 2 – Industry Involvement in Regulation**

### **Section 9 – Functions of Livestock Advisory Groups**

#### **3. Remove reference to Part 2 Division 2**

Part 2 Division 2 – Industry Funds was repealed with the proclamation of the Primary Industry Funding Schemes Act 1998. Section 9 (a) (i) refers to this repealed part of the Act and is to be removed. The Primary Industry Funding Schemes Act 1998 provides for sectors of the livestock industry to make representation to the Minister to establish a Fund for the respective industry.

#### **9—Functions of livestock advisory groups**

A livestock advisory group is to advise the Minister—

- (a) either on its own initiative or at the request of the Minister, on the operation of this Act in relation to the sector of the livestock industry that it represents and in particular—
  - (i) the establishment and management of a fund for that sector and the method of collecting contributions (see Part 2 Division 2); and
  - (ii) the establishment and review of a code of practice for that sector (see Part 2 Division 3); and
  - (iii) the application to that sector of the provisions requiring registration of a person who keeps livestock (see Part 3 Division 1); and
  - (iv) the application to that sector of the provisions for implied terms and conditions of contracts for the sale of livestock, livestock products or livestock food relating to the health of livestock (see Part 4 Division 5); and

- (v) the making of regulations relevant to that sector; and
- (b) at the request of the Minister, on other issues directly related to the sector of the livestock industry that it represents.

#### **4. Provide greater opportunity for industry to advise the Minister**

Since the introduction of the Livestock Act in 1998, seven Livestock Advisory Groups have been established to provide advice to the Minister on those matters prescribed in the Act (see 3 above) and on other general industry matters. The sectors of the State's livestock industry represented by an advisory group include Sheep, Cattle, Pigs, Goats, Deer, Horses and Alpaca.

The advisory groups have been pivotal in developing industry policy in relation to livestock health matters. In addition a number of the groups also act as the consultative committee to the Minister for the respective industry Funds that have been established on advice from the groups.

It is proposed that section 9 (b):

A livestock advisory group is to advise the Minister—

- (b) at the request of the Minister, on other issues directly related to the sector of the livestock industry that it represents.

is amended to:

- (b) at the request of the Minister, or on the group's initiative, on other issues directly related to the sector of the livestock industry that it represents."

#### **5. Advisory group procedures**

Section 10 provides for the terms and conditions of membership of advisory groups and the procedures by which they are run.

Currently Section 10 (2) states that a livestock advisory group may determine its own procedures. Having seven or more advisory groups could result in seven or more different sets of procedures by which they operate which can create inefficiencies and complications with regard to their administration.

It is proposed to amend the section such that a livestock advisory group's procedures will be determined by the group, and approved by the Minister.

## **Livestock Act 1997 – Part 3 – Registration of Certain Industries**

### **Division 1 – Keeping Livestock**

#### **6. Amending penalty provisions for registration breaches**

Section 17 – Requirement for registration to keep certain livestock. This section of the Act requires that a person who keeps livestock of a prescribed class must be registered. Currently there are only two prescribed classes of livestock – deer and bees. Regulations are soon to be introduced that will include sheep, cattle, pigs, goats, South American camelids (alpaca, llama etc), horses and certain commercial avian species (including chickens, ducks, geese, turkeys, pheasant and ostrich) as prescribed species. The purpose of such regulations is to ensure that animal health authorities are able to undertake surveillance and trace livestock and livestock movements in the event of an emergency animal disease response – knowledge of the location and numbers of susceptible species is essential for rapid and effective disease control.

It is generally agreed that the current penalty provisions are not considered appropriate for breaches under this section and in fact there is a strong case for scaled penalty provisions that include expiation fees. It is proposed that the penalty provisions be amended to include expiation fees and that the expiation fees be included in the regulations with the specific provision making a species of livestock a prescribed class of livestock.

The scaled penalty provisions would allow, for example, an expiation fee of:

- \$80 to be issued to a beekeeper who owned 5 or less hives and failed to register,
- \$160 to be issued to a beekeeper who owned between 6 hives and 50 hives and failed to register,
- \$315 to be issued to a beekeeper who owned more than 50 hives and failed to register

### **Division 2 – Artificial Breeding**

#### **7. Amending penalty provisions for registration breaches**

Sections 18 and 19 prohibit a person from operating an artificial breeding centre or carrying out an artificial breeding procedure on or in connection with livestock of a prescribed class respectively unless they are registered under this part.

It is proposed that the penalty provisions be amended to include an expiation fee.

#### **8. Amending the registration requirement for certain persons**

Currently the requirement to be registered to carry out an artificial breeding procedure does not apply to a veterinary surgeon (section 19 (2)). It is proposed that this provision be amended to include:

- a. A person who carries out an artificial breeding procedure on his or her own livestock, or
- b. A person who carries out an artificial breeding procedure on his or her employers livestock.

These exemptions had been included in earlier legislation and should have been carried over when the Act was originally developed. This change would not authorise any laparoscopic artificial breeding procedure by a person who was not qualified to undertake such a procedure.

### **Division 3 – Veterinary Diagnostic Laboratories**

#### **9. Amending the registration requirement for certain persons (section 20)**

As a result of technological advancements, most if not all private veterinary practices would operate some laboratory equipment that tests or analyses samples or specimens obtained from client's animals. The intent of the current provisions was not to require the registration of these businesses under the Act, but rather to regulate laboratories undertaking third party testing for disease or contaminant.

It is proposed that an exemption be inserted such that the registration requirement does not apply to a person who operates a veterinary diagnostic equipment solely for the purposes of testing or analysing samples or specimens submitted by an animal owner client.

### **Livestock Act 1997 – Part 4 – Health of Livestock**

#### **Division 1 – Notifiable Conditions**

#### **10. Amending penalty provisions for certain breaches in relation to notifiable conditions**

Sections 30 and 31 contain provisions which prohibit the movement (and in the case of section 31, the sale or supply) of livestock or livestock products that are or are suspected of being affected with a notifiable condition.

There have been situations where stock, affected with a notifiable disease, have been detected at a saleyard – for example, footrot in sheep. In certain circumstances it might be more appropriate to issue an expiation, such as detection of low grade infection.

It is proposed that the penalty provisions be amended to include an expiation fee for instances that do not involve an exotic disease.

#### **Division 2 – Restrictions on Entry of Livestock or Other Property**

#### **11. Expanding movement restriction options for controlling or eradicating disease or contamination**

Section 33 provides authority for the Minister (for the purposes of controlling or eradicating disease or contamination), by notice in the Gazette, to prohibit entry into the State or a specified part of the State of livestock, livestock products or other property, of a specified class absolutely, or subject to the condition that specified documentation accompany the livestock etc. en route into the State or specified part of the State, or subject to any other condition.

It is proposed that this provision be expanded to include a prohibition on movement within (rather than just movement into the State or specified part of the State) the State as well. Such an amendment will enhance disease control measures, particularly when responding to an emergency animal disease event.

It is also proposed that the penalty provisions be amended to include an expiation fee for instances that do not involve an exotic disease.

#### **Division 4 – Control or Eradication of Disease or Contamination**

##### **12. Amending penalty provisions for certain breaches in relation to Gazette notices**

Section 37 provides authority for the Minister, by notice in the Gazette, to impose certain requirements reasonably required for the purposes of controlling or eradicating disease or contamination.

It is proposed that the penalty provisions be amended to include an expiation fee for instances that do not involve an exotic disease or hindering or obstructing an inspector or person assisting an inspector.

##### **13. Amending penalty provisions for certain breaches in relation to individual orders**

Section 38 provides an inspector with the authority to issue an order (where the inspector knows or has reason to suspect that livestock, livestock products or other property is affected with, or in danger of becoming affected with a disease or contaminant) for the purposes of controlling or eradicating the disease or contamination.

Often an order will include certain requirements, such as livestock must not be permitted to stray, which must be complied with. It is proposed that a schedule of mandatory requirements be developed for which non compliance may result in the issuing of an expiation fee. It is expected that the schedule would include straying, movement without obtaining a permit and failing to identify livestock as required.

##### **14. Clarification of the limitation on destruction or disposal of livestock or other property**

Section 43 (1) (d) states that “an inspector may not issue an order, take action, or cause action to be taken under this Division for the destruction or disposal of equipment or articles used in relation to livestock (such as halters or rugs), except with the consent of the owner of the property or the approval of the Chief Inspector”.

It is proposed to amend the provision by removing the words “(such as halters or rugs)” as it creates an element of ambiguity.

## **Livestock Act 1997 – Part 5 – Exotic Diseases Eradication Fund**

### **15. Amendment to the establishment and application of the South Australian Exotic Diseases Eradication Fund as a result of the national Government and Livestock Industry Cost Sharing Agreement in respect of Emergency Animal Disease Responses**

Since the introduction of the Act, the State has become a signatory to the national “Government and Livestock Industry Cost Sharing Agreement” in respect of Emergency Animal Disease Responses. This agreement sets out the rules and responsibilities of the signatories (all State governments, the Commonwealth government, the Northern Territory, the ACT and most national livestock industry bodies) when mounting a response to the listed agreed exotic diseases.

Amendments to the existing provisions of the Act are required to provide for accepting monies into the Fund from any party to the cost sharing deed (section 47 (3) (b)), paying contributions to any party to the cost sharing deed (section 48 (d)) and allow for the payment of salaries or wages of persons employed in the public sector who are or would be employed irrespective of the outbreak or suspected outbreak of exotic disease – where specifically permitted in a Cost Sharing Agreement.

### **16. Amendment to the “Claims for Compensation” provisions of the South Australian Exotic Diseases Eradication Fund**

Currently section 49 provides for compensation payments to owners of livestock where the livestock have been certified by an inspector as having died of a declared exotic disease or having been destroyed for the purposes of controlling or eradicating a declared exotic disease. The livestock are to be valued at the amount they might have realised immediately prior to the existence or suspected existence of the disease, having regard for the value of comparable livestock at the nearest most recent markets.

Certain diseases do not require the destruction and burial/burning of the carcass and in fact the animal can be slaughtered and the meat is suitable for human consumption (e.g. Aujeszky’s disease in pigs or bovine brucellosis in cattle). In such cases the amount of compensation should be reduced by the amount that the claimant receives through the salvage slaughter.

It is proposed that salvage slaughter provisions are introduced into the determination for compensation payments.

## **Livestock Act 1997 – Part 6 – Special Provisions Relating to Bees**

### **17. Provision of Water for Bees**

The apiary industry is very keen to minimise the opportunity for disease spread among apiaries within the State. With this aim in mind it has recommended that it be made an offence not to provide water for bees so as to minimise the need for bees to otherwise travel to find a water source. Failure to provide water can result in hive die-out during periods of extreme heat, followed by robbing of the dead hive and the risk of disease

spread. Water deprivation will also result in the mixing of bees from different apiaries and increase the nuisance factor with bees searching for water.

It is proposed that the Act be amended such that it will be an offence not to provide, within 100 metres of any hive, sufficient clean water of suitable mineral content for the bees. Penalty provisions will include an expiation fee.

### **18. Removal and destruction of neglected hive material**

Because it is not expensive to enter or leave the apiary industry there are many instances where hive material has been either abandoned or severely neglected. This material poses a significant risk, in relation to the potential for disease spread, to legitimate beekeepers. Over recent years a great deal of time has been spent by apiary inspectors and industry members, at significant cost to both Government and industry, removing and either making bee proof or destroying high risk neglected material.

It is proposed to introduce a power authorising the Chief Inspector to take action to make any commercially viable material bee proof or destroy material that has no commercial value where severely neglected material is detected and the owner of the material fails or refuses to take the necessary action. It is proposed that any reasonable costs associated with the taking of such action, including the wages of an inspector in supervising such action, be recovered from the owner of the material.

## **Livestock Act 1997 – Part 8 – Administration and Enforcement**

### **19. Appointment of Inspectors - Police**

It is recognised that the successful containment, tracing, control and eradication of an emergency animal disease relies heavily on the cessation of all movement of susceptible species as soon as the disease incursion had been detected. This fact was reinforced with the two Foot and Mouth Disease outbreaks in the United Kingdom in the early and mid 2000's.

It has also been recognised that in the case of an emergency animal disease the opportunity for effective policing of livestock movements into and within the State is beyond the scope of current PIRSA resources and the assistance of SAPOL will be essential for an effective livestock standstill and other livestock movement restrictions imposed during the disease response.

It is proposed that SA Police officers be automatically appointed as inspectors with powers limited to those required for stopping or directing the movement of vehicles transporting or suspected to be transporting livestock or livestock product. These powers should also include the power to require documentation to be presented upon request. Use of the powers would be limited to the period of time declared by the Minister under section 37 of the Act (*Gazette Notices*) in response to the emergency.

## **20. Erecting a placard**

With the development of risk based trading it is important that inspectors at markets have the power to erect a placard either advising of the health status of, or warning of the presence of a notifiable or controlled notifiable disease.

It is proposed that such a power, under section 68, be introduced.

## **Livestock Act 1997 – Part 10 – Miscellaneous**

### **21. Regulations**

A minor amendment to the regulation making power in relation to possession and use of vaccines and diagnostic reagents is required. This is in response to the development of “crush-side” tests for a widening range of diseases, for which the quality controls are considered sub-standard and the operator’s ability to interpret the results might be questionable. There is the potential for significant damage and disruption to international trade where false or misleading test results suggest the presence of a significant animal disease. Similarly, inappropriate vaccination of animals against exotic diseases may lead to false positive test results and severe impacts on our international trade. It is proposed to change the existing power from:

- (c) prohibit or regulate the possession and use of vaccines or diagnostic reagents intended for use on livestock or native or feral animals;
- to
- (c) prohibit or regulate the possession and use of vaccines or diagnostic reagents intended for use on or in relation to livestock or native or feral animals;

The reason for the change is to ensure that there is a legitimate authority to regulate the use of diagnostic reagents and vaccines to prevent the unauthorised testing or vaccination for notifiable and exotic diseases.