

Western Australia

**Veterinary Preparations and Animal Feeding  
Stuffs Amendment Act 2004**

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As at 08 Dec 2004

No. 76 of 2004

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## Veterinary Preparations and Animal Feeding Stuffs Amendment Act 2004

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Western Australia

# **Veterinary Preparations and Animal Feeding Stuffs Amendment Act 2004**

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**No. 76 of 2004**

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**An Act to amend the *Veterinary Preparations and Animal Feeding Stuffs Act 1976* and for related purposes.**

[Assented to 8 December 2004]

The Parliament of Western Australia enacts as follows:

**1. Short title**

This Act may be cited as the *Veterinary Preparations and Animal Feeding Stuffs Amendment Act 2004*.

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**2. The Act amended**

The amendments in this Act are to the *Veterinary Preparations and Animal Feeding Stuffs Act 1976\** except as stated in section 4(2).

[\* *Reprinted as at 20 August 1999.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 397.]*

**3. Long title replaced**

The long title is repealed and the following long title is inserted instead —

“

**An Act —**

- **to provide for the control of the use of veterinary chemical products and the regulation of the sale of certain stock, stock products, and carcasses of stock treated with veterinary chemical products;**
- **to provide for the regulation of the sale and use of certain substances that promote, or are intended to promote, growth in stock and also of the sale of stock, or the carcasses of stock, which have been or are declared not to have been treated with a substance of that kind;**
- **to control and regulate the production, importation, treatment, preparation for sale, marketing, storage, and sale of animal feeding stuffs,**

**and for incidental and other purposes.**

”

**4. Section 1 amended, and consequential amendment to  
Consumer Affairs Act 1971**

- (1) Section 1 is amended by deleting “*Veterinary Preparations and Animal Feeding Stuffs Act 1976.*” and inserting instead —

“

*Veterinary Chemical Control and Animal Feeding Stuffs Act 1976.*

”.

- (2) The Schedule to the *Consumer Affairs Act 1971*\* is amended by deleting “*Veterinary Preparations and Animal Feeding Stuffs Act 1976.*” and inserting instead —

“

*Veterinary Chemical Control and Animal Feeding Stuffs Act 1976.*

”.

[\* *Reprinted as at 25 March 1999.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 74.]*

**5. Section 5 amended**

- (1) Section 5(1) is amended as follows:

- (a) after the definition of “animal feeding stuff” by inserting the following definition —

“

**“approved label”**, in relation to a registered veterinary chemical product, means a label approved under Part 2 of the Agvet Code of Western Australia for containers for the veterinary chemical product;

”;

- (b) in the definition of “carcass” by deleting “cattle and to any other animal prescribed as an animal to which Part VA applies,” and inserting instead —

**s. 5**

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“ any stock, ”;

- (c) after the definition of “purchaser” by inserting the following definition —

“

**“registered veterinary chemical product”** means a veterinary chemical product registered under Part 2 of the Agvet Code of Western Australia;

”;

- (d) after the definition of “stock” by inserting the following definition —

“

**“stock product”** means —

- (a) anything obtained from stock to be used as, or processed into, food for humans or animals; or
- (b) the hide, hair or fleece of any stock;

”;

- (e) by deleting the definitions of “treat” and “treated”;
- (f) by deleting the definition of “veterinary preparation” and inserting the following definitions instead —

“

**“veterinary chemical product”** has the same meaning as it has in the Agvet Code of Western Australia except that —

- (a) despite section 5(4) of that Code, it includes a substance or mixture of substances that is —
- (i) prepared in accordance with the instructions of a veterinary surgeon by a pharmaceutical chemist registered under the *Pharmacy Act 1964*; or
- (ii) prepared by a veterinary surgeon,

in the course of the practice, by the person preparing the substance or mixture of substances, of that person's profession; and

(b) it does not include a prescribed substance;

**“veterinary surgeon”** means a veterinary surgeon registered under the *Veterinary Surgeons Act 1960*;

”.

(2) Section 5(3)(b) is amended after “treated” in both places where it occurs by inserting —

“ with a prescribed substance ”.

(3) After section 5(3) the following subsection is inserted —

“

(4) A reference in this Act to a stock product treated with a veterinary chemical product is to be taken to be a reference to a stock product from stock treated with a veterinary chemical product.

”.

**6. Section 6 amended**

(1) Section 6(1)(a) is amended by deleting “subject to subsection (2),”.

(2) Section 6(1)(c) is deleted and the following paragraph is inserted instead —

“

(c) subject to subsection (4), to veterinary chemical products,

”.

(3) Section 6(2) is repealed.

**s. 7**

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**7. Section 7 amended**

Section 7 is amended by deleting “or carcass to which Part VA applies,” and inserting instead —

“ , stock product or carcass, ”.

**8. Parts IV and V inserted**

After section 14 the following Parts are inserted —

“

**Part IV — Control of use of veterinary  
chemical products**

**15. Regulations relating to control of use of veterinary  
chemical products**

- (1) Regulations may be made under section 68 for the purposes of controlling the use of veterinary chemical products.
- (2) Without limiting subsection (1), regulations referred to in that subsection —
  - (a) may prohibit, restrict or otherwise regulate the use of veterinary chemical products;
  - (b) may have effect by reference to approved labels or to registration under Part 2 of the Agvet Code of Western Australia;
  - (c) may provide for the duties and obligations of veterinary surgeons or other persons in relation to the use of veterinary chemical products;
  - (d) may provide for the keeping of records and a system of declarations or returns in relation to the use of veterinary chemical products, and for the verification of the information supplied; and

- (e) may provide for the imposition of penalties, not exceeding \$5 000, for offences against those regulations.

**Part V — Regulation of sale of certain stock, stock products and carcasses**

**16. Regulations relating to sale of certain stock, stock products and carcasses**

- (1) Regulations may be made under section 68 for the purposes of prohibiting, restricting or otherwise regulating the sale of any stock, any stock product, or the carcass of any stock treated with a veterinary chemical product.
- (2) Without limiting subsection (1), regulations referred to in that subsection —
  - (a) may have effect by reference to —
    - (i) a permit issued under section 114 of the Agvet Code of Western Australia;
    - (ii) the instructions relating to the use of a veterinary chemical product given by a veterinary surgeon in the course of the practice of the veterinary surgeon's profession; and
    - (iii) in the case of a registered veterinary chemical product — any direction, instruction, caution, warning or recommendation on an approved label relating to the use of the veterinary chemical product;

and

- (b) may provide for the imposition of penalties, not exceeding \$5 000, for offences against those regulations.

”.

**9. Section 36AA inserted**

Before section 36A the following section is inserted in Part VA —

“

**36AA. Definition**

In this Part —

“**treated**”, in relation to an animal, means that the animal has been treated with a prescribed substance.

”.

**10. Section 38 amended**

- (1) Section 38(1)(a) is deleted and the following paragraph is inserted instead —

“

- (a) enter and search any land, building, premises or place which he has reasonable grounds for believing is used for or in connection with —
  - (i) the treatment of any stock with a veterinary chemical product or the holding of any stock, stock product or carcass of any stock which has or may have been treated with a veterinary chemical product; or
  - (ii) the production, importation, treatment, storage, preparation for sale, marketing, or sale of an animal feeding stuff or, for the purposes of Part VA, of any stock or

carcass which has or may have been treated with a prescribed substance or has been declared to have been not treated with a prescribed substance;

”.

(2) Section 38(1)(b) is amended as follows:

(a) after “Part” by inserting —

“ IV, V or ”;

(b) by deleting “or carcass which has or may have been treated or has been declared not to have been treated,” and inserting instead —

“

, stock product, or carcass of any stock which has or may have been treated with a veterinary chemical product, or of any stock or carcass of any stock which has or may have been treated with a prescribed substance or has been declared to have been not treated with a prescribed substance,

”.

(3) After section 38(1)(c) “and” is deleted and the following is inserted —

“

(ca) for the purposes of Part IV or V, stop, or order, the movement of any stock, stock product or carcass; and

”.

## **11. Section 39 amended**

(1) Section 39(1)(a) is amended as follows:

(a) by deleting the passage from and including “person in possession of” to and including “to be not treated,” and inserting instead —

“

person —

- (i) who is in possession of or the purchaser of any veterinary chemical product or animal feeding stuff; or
- (ii) for the purposes of Part IV, V or VA, who the inspector has reasonable cause to believe may be in possession of or the purchaser of any prescribed substance or any stock, stock product, or the carcass of any stock which has been treated with a veterinary chemical product, or any stock, or the carcass of any stock, which has been treated with a prescribed substance or declared to be not treated with a prescribed substance,

”.

- (2) Section 39(1)(b) is amended by deleting “VA any person whom the inspector has reasonable cause to believe to be a seller of any stock, or the carcass of any stock, which has been treated or declared to be not treated,” and inserting instead —

“

IV, V or VA any person who the inspector has reasonable cause to believe to be a seller of any stock, stock product, or the carcass of any stock which has been treated with a veterinary chemical product, or any stock, or the carcass of any stock, which has been treated with a prescribed substance or declared to be not treated with a prescribed substance,

”.

- (3) Section 39(1)(d) is amended by deleting “or declared to be not treated,” and inserting instead —

“  
with a prescribed substance or declared to be  
not treated with a prescribed substance,  
”.

**12. Section 40 amended**

Section 40(1) is amended by deleting “VA any substance, stock” and inserting instead —

“  
IV, V or VA any veterinary chemical product or any  
substance, stock, stock product  
”.

**13. Section 40A amended**

(1) Section 40A(1) is amended as follows:

- (a) by deleting “or carcass has or may have been treated, or is or may have been declared to be not treated, may require any person apparently in charge of that stock” and inserting instead —

“  
, stock product or carcass has or may have been treated with a veterinary chemical product, or that any stock or carcass has or may have been treated with a prescribed substance, or is or may have been declared to be not treated with a prescribed substance, may require any person apparently in charge of that stock, stock product  
”;

- (b) in paragraph (b) after “stock” by inserting —

“ , stock product ”;

- (c) in paragraph (c) after “Part” by inserting —

“ IV, V or ”;

- (d) in paragraph (d) by deleting “other facility — ” and inserting instead —

**s. 14**

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- “ anything else — ”;
  - (e) in paragraph (d)(i) after “any” by inserting —  
“ stock product or ”;
  - (f) in paragraph (d)(ii) after “stock” by inserting —  
“ , stock product ”.
- (2) Section 40A(2) is amended after “Part” by inserting —  
“ IV, V or ”.

**14. Section 40B amended**

Section 40B is amended after “Part” by inserting —  
“ IV, V or ”.

**15. Section 41 amended**

- (1) After section 41(1) the following subsection is inserted —

“

- (1aa) An inspector who has reasonable grounds for believing —
- (a) that a substance is a veterinary chemical product; or
  - (b) that any stock, stock product or the carcass of any stock has been treated with a veterinary chemical product,

may, for the purposes of Part IV or V, inspect and test that substance, stock, stock product or carcass, or any tissue obtained from that stock or carcass, and may take samples for analysis and examination.

”.

- (2) Section 41(1a)(b) is deleted and the following paragraph is inserted instead —

“  
(b) that any stock, or the carcass of any stock, has been treated with a prescribed substance or declared to be not treated with a prescribed substance,  
”.

(3) Section 41(2) is amended after “stock,” by inserting —  
“ stock product, ”.

(4) Section 41(3) is amended after “stock,” by inserting —  
“ stock product, ”.

**16. Section 42A amended**

Section 42A is amended as follows:

(a) before paragraph (b) by inserting the following paragraph —

“  
(a) stock, stock product or carcass of any stock which has been treated with a veterinary chemical product;  
”;

(b) in paragraphs (b) and (c) after “treated” by inserting —  
“ with a prescribed substance ”;

(c) by deleting “substance, or of the” and inserting instead —  
“ stock, stock product or ”.

**17. Section 43 amended**

Section 43(a) is amended by deleting “animal feeding stuff, stock,” and inserting instead —

**s. 18**

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“  
veterinary chemical product, animal feeding  
stuff, stock, stock product,  
”.

**18. Section 44 amended**

- (1) Section 44(1) is amended after “stock,” by inserting —  
“ stock product, ”.
- (2) Section 44(3) is amended after “stock,” by inserting —  
“ stock product, ”.

**19. Section 48 amended**

Section 48(1) is amended after “stock,” in both places where it occurs by inserting —  
“ stock product, ”.

**20. Section 60 amended**

Section 60(2) is amended after “stock” by inserting —  
“ , stock product ”.

**21. Section 61 amended**

Section 61(2) is amended after “for the purposes of” by inserting —  
“  
Part V any stock, stock product or carcass, or for the  
purposes of  
”.

**22. Section 62 amended**

- (1) Section 62(1) is amended by deleting “VA any prescribed substance, stock or carcass” and inserting instead —

“  
IV, V or VA any veterinary chemical product, stock,  
stock product, carcass or prescribed substance  
”.

- (2) Section 62(2) is amended by deleting “VA to the whole supply of any prescribed substance and the total number of any stock” and inserting instead —

“  
IV, V or VA to the whole supply of the veterinary  
chemical product or any similar veterinary chemical  
product, the whole supply of any prescribed substance,  
and the total number of any stock, stock products  
”.

**23. Section 64 amended**

After section 64(2) the following subsection is inserted —

“  
(3) Subject to section 44, a prosecution for an offence against this Act may be instituted at any time within 3 years after the date on which it is alleged the offence was committed.  
”.

**24. Section 65 amended**

Section 65 is amended as follows:

- (a) in paragraph (b) after “chemists or” by deleting “registered”;
- (b) in paragraph (c) after “chemist, a” by deleting “registered”;
- (c) in paragraph (c)(ii) by deleting “registered”.

**25. Section 66 amended**

- (1) Section 66(1) is amended after “or was not” by inserting —

**s. 26**

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“  
a veterinary chemical product or stock product, or was  
not  
”.

(2) After section 66(1) the following subsection is inserted —

“  
(1a) In the absence of evidence to the contrary, the  
allegation that stock, a stock product or a carcass was  
sold or intended to be sold may be taken to be  
sufficient evidence of a sale alleged in proceedings for  
the purposes of Part V.  
”.

**26. Section 68 amended**

(1) Before section 68(2)(a) the following paragraph is inserted —

“  
(aa) the matters referred to in sections 15 and 16;  
”.

(2) Section 68(3)(d) is amended by deleting “section” and inserting  
instead —

“ sections 15(2)(e), 16(2)(b) and ”.

**27. Amendment of various provisions referring to veterinary  
preparations**

(1) Section 5(1) is amended in the definition of “product” by  
deleting “veterinary preparation” and inserting instead —

“ veterinary chemical product ”.

(2) Section 6(4) is amended by deleting “preparations” and  
inserting instead —

“ chemical products ”.

(3) Section 7 is amended by deleting “preparation” and inserting  
instead —

“ chemical product ”.

- (4) Section 68(2)(q) is amended by deleting “veterinary preparations or”.
- (5) Section 68(2)(y) is amended by deleting “preparations” and inserting instead —  
“ chemical products ”.

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