

ANIMALS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Animals Act 1967.

Clause 1 relates to the Short Title.

Clause 2 relates to interpretation.

Subclause (1) amends the definition of “dip” by including in that term the use of approved “pour-on” and “back-line” lice control products that do not require the sheep to be totally immersed in the product.

Subclause (2) substitutes a new definition of the term “disease”.

Subclause (3) repeals the definitions of the terms “Tuberculin Testing Officer” and “Tuberculin Testing Technician”, and is consequential on the amendments made in *clause 6* of the Bill.

Clause 3 makes amendments to section 6 of the principal Act which were recommended by the Public and Administrative Law Reform Committee in its report on statutory powers of entry. The amendments require both that Inspectors produce identification upon entry to any land, and that search warrants must state expressly the purposes for which they are granted.

Clause 4 provides for special quarantine grounds. At present, section 11 of the principal Act authorises quarantine grounds to be set up only on Crown land or land under the control of the Director-General.

The new clause authorises the Director-General to declare other land, upon application by the occupier of that land, to be a special quarantine ground, and subject to the specific direction of the Director-General. The amendments made by this clause are mainly consequential on the judgment of Bisson J. in *Mason v. Attorney-General and Haydon*, which judgment was delivered on 10 June 1983 at Hamilton.

Clause 5 is a new provision which authorises the imposition of movement restrictions on animals, fodder, fittings, and other things that may have been in contact with animals that may be affected with or harbouring any potentially harmful organism or parasite.

Clause 6 consolidates and simplifies the provisions relating to tuberculosis and brucellosis in cattle.

The punitive measures contained in section 53 (11)–(14) of the principal Act in relation to suppliers of milk or cream to a dairy factory have not been re-enacted.

Penalties for offences have all been increased.

Clause 7 authorises the Director-General to give a limited exemption in respect of certain movement controlled herds of cattle.

Clause 8 requires the users of products which take the place of products in which a sheep is totally immersed for dipping purposes to use that product in accordance with the directions on its label. See also the amended definition of “dip” in *clause 2 (1)* of the Bill.

Right Hon. Mr MacIntyre

ANIMALS AMENDMENT

ANALYSIS

Title	<i>Control of Tuberculosis and Brucellosis in Cattle</i>
1. Short Title	53. Tuberculosis and brucellosis testing of cattle
2. Interpretation	53AA. Power to direct slaughter of affected cattle
3. Powers of Inspectors	53AB. Offence to transfer or sell animal after direction to slaughter
4. Special quarantine grounds	53AC. Regulations
5. Restrictions on movement of animals	7. Movement controlled herds of cattle
6. New sections substituted	8. Method of dipping sheep

A BILL INTITULED

An Act to amend the Animals Act 1967

BE IT ENACTED by the General Assembly of New Zealand
in Parliament assembled, and by the authority of the same, as
5 follows:

1. Short Title—This Act may be cited as the Animals
Amendment Act 1983, and shall be read together with and
deemed part of the Animals Act 1967* (hereinafter referred to
as the principal Act).

10 **2. Interpretation**—(1) Section 2 (1) of the principal Act is
hereby amended by inserting in the definition of the term
“dip”, after the word “apparatus”, the words “or to apply such
a preparation to the sheep in accordance with the requirements
of that section”.

*1967, No. 50

Amendments: 1969, No. 50; 1974, No. 17; 1976, No. 52; 1977, No. 142; 1980, No. 98;
1981, No. 14; 1982, No. 150

(2) The said section 2 (1) is hereby further amended by repealing the definition of the term “diseased” (as substituted by section 2 (2) of the Animals Amendment Act 1982), and substituting the following definition:

“ ‘Diseased’, in relation to any animal, means an animal 5
that is affected or has been affected by any disease
or, as a result of a diagnostic test or tests, is judged
to have been exposed to the aetiological agent of any
disease:”.

(3) The said section 2 (1) is hereby further amended by 10
repealing the definitions of the terms “Tuberculin Testing
Officer” and “Tuberculin Testing Technician”.

(4) Section 2 (2) of the Animals Amendment Act 1982 is
hereby consequentially repealed.

3. Powers of Inspectors—(1) Section 6 of the principal Act 15
is hereby amended by repealing subsection (1) (as amended by
section 2 (1) of the Animals Amendment Act 1974), and
substituting the following subsections:

“(1) Every Inspector may enter at any time into any
conveyance, or on any land or premises, or on board any ship 20
or aircraft for the purpose of inspecting any animal, animal
product, animal manure, packing material, fittings, fodder, or
other thing that is the subject of this Act, and may be
accompanied by a member of the Police.

“(1A) No Inspector or member of the Police shall enter into 25
a dwellinghouse pursuant to **subsection (1)** of this section, unless
he is authorised in that behalf by a warrant under the hand
of a District Court Judge, which warrant shall specify the
purposes for which it is granted and shall not be granted by
the District Court Judge unless he is satisfied that the Inspector 30
has reasonable grounds for requiring entry into the
dwellinghouse.

“(1B) Every Inspector exercising a power under **subsection (1)**
of this section shall have with him due evidence of his
appointment and, if the case may require, any warrant, and 35
shall produce that evidence and, if the case may require,
warrant to the occupier or, as the case may be, officer in charge
of the conveyance, land, premises, ship, or aircraft—

“(a) If practicable, on first entering into the conveyance or
on the land or premises or on board the ship or 40
aircraft; and

“(b) Wherever subsequently reasonably required to do so by
that occupier or officer in charge.”

(2) Section 2 (1) of the Animals Amendment Act 1974 is
hereby consequentially repealed. 45

4. Special quarantine grounds—The principal Act is hereby amended by inserting, after section 11, the following section:

5 “11A. (1) The occupier of any land (not being land which could be set apart under section 11 (1) of this Act) may apply to the Director-General to have all or any part of that land declared by the Director-General, by notice in the *Gazette*, to be a special quarantine ground for the detention of imported animals or of one or more kinds of imported animals.

10 “(2) The Director-General may, by notice in the *Gazette*, abolish any special quarantine ground as from the day specified in the notice.

15 “(3) The provisions of subsections (3) and (4) of section 11 of this Act shall apply in respect of a special quarantine ground as if it were a quarantine ground set apart under that section; but the Director-General may give specific directions for the regulation, management, or control of any particular special quarantine ground or the husbandry of any animal thereon.

20 “(4) No person shall be, nor held by operation of law to be, an employee or servant of the Crown or the Director-General, or an assistant to an Inspector, by reason only of that person’s actions in—

“*(a)* Taking part in the management of any special quarantine ground or the husbandry of any animal thereon; or

25 “*(b)* Giving effect to any direction of the Director-General which relates to the regulation, management, or control of the special quarantine ground or the husbandry of any animal thereon,—

and no action or proceedings shall be brought against the Crown, the Director-General, or any Inspector in respect of any such actions.”

5. Restrictions on movement of animals—The principal Act is hereby amended by inserting, after section 13, the following section:

35 “13A. (1) For the purpose of controlling the movement of animals which may be affected with or harbouring any potentially harmful organism or parasite, the Minister may from time to time give notice under **subsection (2)** of this section.

40 “(2) A notice for the purpose of **subsection (1)** of this section shall be published in the *Gazette*, and, subject to such conditions as the Minister may impose, may restrict or prohibit the movement into, within, or from, any area specified in the notice, of any such animal species, animal product, fodder, fitting, or thing as may be specified in the notice, in the manner, for the time, and to the extent that may be so specified.

“(3) Every such notice shall briefly state the reasons for its being made, and may in like manner be amended or revoked.

“(4) Any Inspector may seize any animal or any descendant of any such animal, animal product, fodder, fitting, or thing that has been moved into, within, or from an area in contravention of any restriction or prohibition imposed under **subsection (2)** of this section, and shall destroy, fumigate, disinfect, or otherwise deal with any of them that is so seized as the Chief Veterinary Officer may direct; and no compensation shall be payable in respect thereof. 5 10

“(5) All costs and expenses of and attendant upon any such seizure, and the destruction or other dealing therewith shall be borne by the owner thereof, and shall be recoverable from him as a debt due to the Crown.”

6. New sections substituted—(1) The principal Act is hereby amended by repealing section 53 (as amended by section 6 of the Animals Amendment Act 1969, sections 9 and 10 of the Animals Amendment Act 1974, and section 4 of the Animals Amendment Act 1976) and the cross-heading to that section (as amended by section 3 (1) of the Animals Amendment Act 1980), and substituting the following cross-heading and sections: 15 20

“Control of Tuberculosis and Brucellosis in Cattle

“53. Tuberculosis and brucellosis testing of cattle—

(1) Every owner of cattle shall, as often and in such manner as may be required by the Director-General, submit the cattle for testing for tuberculosis or brucellosis. 25

“(2) The Director-General may, from time to time, determine that any cattle shall not be tested for tuberculosis or brucellosis.

“(3) All testing for tuberculosis or brucellosis carried out under this section shall be carried out by a registered veterinary surgeon or an Inspector. 30

“(4) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who fails to comply with any requirement under **subsection (1)** of this section, and to a further fine not exceeding \$50 for every day during which the failure continues. 35

“53AA. Power to direct slaughter of affected cattle—

(1) Where the Director-General is satisfied, whether by reason of a test or otherwise, that any cattle is affected with tuberculosis or brucellosis, he may direct that the cattle shall be slaughtered, and may specify the time within which the slaughter must be carried out and the manner and place thereof. 40

“(2) Where any such animal is directed to be slaughtered or has been slaughtered such compensation as is prescribed by regulations made under this Act shall be paid by the Crown, out of money appropriated by Parliament for the purpose,

5 to—

“(a) The owner of the cattle immediately before sale in any case where the animal has been sold for immediate slaughter:

10 “(b) The owner of the cattle when it is directed to be slaughtered or is slaughtered in any other case.

“(3) No sum shall be paid under **subsection (2)** of this section as compensation in respect of any animal that is less than 6 weeks old when it is directed by the Director-General to be slaughtered.

15 “(4) Nothing in sections 44 to 48 of this Act shall apply in respect of any animal that, pursuant to this section, is slaughtered or is directed to be slaughtered.

20 “(5) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who fails to comply with any direction given under **subsection (1)** of this section, and to a further fine not exceeding \$50 for every day during which the failure continues.

“**53AB. Offence to transfer or sell animal after direction to slaughter**—(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who sells or attempts to sell or offers for sale, or transfers to any other person otherwise than for immediate slaughter, any animal which the Director-General has directed, pursuant to **section 53AA** of this Act, shall be slaughtered.

30 “(2) Nothing in **subsection (1)** of this section shall apply to the transfer of any animal—

35 “(a) To the personal representatives or trustees of any deceased person, or to any person beneficially entitled to the animal under the will or intestacy of any deceased person:

“(b) From any trustee to another trustee or to any person entitled to the animal under any trust:

40 “(c) To any creditor having security over the animal, to any assignee in bankruptcy, or to any assignee for the benefit of any creditors of the owner of the animal.

“(3) Nothing in **subsection (1)** of this section shall apply to any sale of any animal to the Crown for experimental or research purposes or to any attempt or offer to sell any animal to the Crown for any such purposes, nor shall any thing in this section affect the validity of any sale or transfer of any animal.

“53AC. **Regulations**—Regulations may be made under section 107 of this Act—

- “(a) Providing that any cattle that is to be tested pursuant to this section or that is infected with tuberculosis or brucellosis shall be identified as such; and specifying the means of such identification or providing that the Director-General may prescribe such means; and providing for matters incidental thereto: 5
- “(b) Requiring the owner of cattle to provide adequate facilities and assistance when any cattle of that owner are being tested under this section: 10
- “(c) Prescribing the amount of, or the basis for establishing, compensation payable by the Crown under this section and any conditions relating to the payment thereof; and any such regulations may provide that they shall come into force or shall be deemed to have come into force on a date to be specified therein, whether that date is before or after the date of the making of the regulations.” 15

(2) The following enactments are hereby consequentially repealed: 20

- (a) Section 6 of the Animals Amendment Act 1969:
- (b) Section 9 of the Animals Amendment Act 1974 and so much of the First Schedule to that Act as relates to section 53 (12) of the principal Act: 25
- (c) Section 4 of the Animals Amendment Act 1976:
- (d) Section 3 (1) of the Animals Amendment Act 1980.

7. Movement controlled herds of cattle—(1) Section 53A of the principal Act (as inserted by section 5 of the Animals Amendment Act 1976) is hereby amended by inserting, after subsection (4), the following subsection: 30

“(4A) The Director-General may, in any notice declaring a herd to be a movement controlled herd, exempt such animals as he may specify from the movement restrictions otherwise imposed.” 35

(2) The said section 53A is hereby further amended by omitting from subsection (5) (a) the word “Knowingly”, and substituting the words “Except in accordance with an exemption given under **subsection (4A)** of this section, knowingly”. 40

8. Method of dipping sheep—(1) Section 56 (2) of the principal Act is hereby amended by adding the words “in accordance with the directions given on the approved label”.

(2) Section 56 of the principal Act is hereby further amended by repealing subsection (3), and substituting the following subsection:

“(3) For the purposes of subsections (1) and (2) of this section,
5 the term ‘approved label’, in relation to any preparation, means the label borne by or attached to the receptacle in which the preparation has been sold, being a label a copy of which has been approved in respect of that preparation by the Animal Remedies Board pursuant to section 36 of the Animal Remedies
10 Act 1967; and the term ‘specified period’ means the period specified in that behalf in the directions for use set out on the label.”