

ANIMAL REMEDIES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Animal Remedies Act 1967.

Clause 1 relates to the Short Title of the Bill.

Clause 2 inserts in section 2 of the principal Act (which section defines the terms used in the Act) a definition of "experimental animal". An "experimental animal" is one kept and used for the purpose of testing, developing, or producing an animal remedy or experimenting with any such remedy.

Clause 3: The New Zealand Ethical Pharmaceutical Association Incorporated has changed its name to the Pharmaceutical Manufacturers' Association (New Zealand) Incorporated and the New Zealand Agricultural Chemical Manufacturer's Association has changed its name to the Agricultural Chemicals and Animal Remedies Manufacturers' Federation of New Zealand. The clause accordingly amends section 5 of the principal Act (which section relates to the membership of the Animal Remedies Board).

Clause 4 amends section 10 of the principal Act which empowers the board to delegate certain of its powers. The amendment is consequential on *clause 12* which inserts a new *section 63A* in the principal Act restricting the sale and use of animals kept for experimental purposes. Under the amendment the board will be able to delegate to the Registrar of Animal Remedies its power under *section 63A* to authorise the sale of animals used for the testing of an animal remedy or the carcasses of any such animals.

Clause 5 makes it clear that the board may carry out or have carried out on its behalf tests and analyses of any animal remedy whether a licence has been issued in respect of it or not.

Clause 6 amends section 18 of the principal Act, which prohibits the manufacture or importation of an animal remedy without a licence. The clause adds to subsection (1) a second proviso which makes it clear that it is not necessary for a manufacturer or importer to have a licence to manufacture or, as the case may be, import an animal remedy in cases where the remedy is in the process of being tested and developed and is not sold.

The clause also amends subsection (2) of section 18 to provide that any person convicted of an offence against the section may, in addition to the existing penalty, be liable if the offence is a continuing one to a further fine not exceeding \$20 for each day on which the offence continues.

Clause 7 amends section 24 of the principal Act, which relates to provisional licences. In future a provisional licence will only be available for a licensee to try out an animal remedy "in the field" for a trial period. At present a provisional licence may also be issued in respect of an animal remedy for experimental purposes.

Clause 8 rewrites section 34 of the principal Act which at present provides for an appeal against certain decisions of the board to be made to a Magistrate and two assessors. Under the rewritten section appeals will be made to and heard by the recently constituted Administrative Division of the Supreme Court.

Clause 9 amends section 40 of the principal Act by widening the scope of subsection (2), which makes it an offence for a dealer to sell an animal remedy for which no licence is in force, so that *any* person who sells any such remedy commits an offence. The clause also makes a minor amendment to subsection (5), which is consequential on the definition of "experimental animal", inserted by *clause 2*.

Clause 10 amends section 41 of the principal Act, which relates to the advertising of animal remedies, by requiring all advertisements published in respect of a licensed animal remedy to include a statement to the effect that the remedy is licensed under the Animal Remedies Act 1967. In addition the number of the licence is to be stated.

Clause 11 re-enacts in an amended form section 63 of the principal Act which makes it an offence to send, carry, or deliver an animal remedy knowing that no licence has been issued for it or under a description known to be false. The re-enacted section makes it clear that no offence is committed against the section in respect of an unlicensed animal remedy if the remedy has been exempted under section 3 of the principal Act from being licensed or if the remedy is being sent, carried, or delivered for the sole purpose of testing or developing the remedy or for carrying out experiments on or in respect of it.

Clause 12 inserts a new section 63A in the principal Act to restrict the sale and use of animals used for experimental purposes. No person may sell any such animal without the prior approval of the board. In approving any such sale the board may impose such conditions as may be necessary to safeguard human and animal health. A maximum penalty of \$1,000 may be imposed on summary conviction for breach of the section.

Hon. Mr Talboys

ANIMAL REMEDIES AMENDMENT

ANALYSIS

Title	7. Provisional licences
1. Short Title	8. Appeals from decisions of the Board
2. Interpretation	9. Offences relating to the sale and uses of animal remedies
3. Membership of the Board	10. Advertisements to state number of licence, etc.
4. Delegation by the Board	11. Sending or carrying an animal remedy under a false description
5. Functions and powers of the Board	12. Restrictions on sale of experimental animals
6. Prohibition on manufacture or importation of animal remedies without licence.	

A BILL INTITULED

An Act to amend the Animal Remedies Act 1967

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

1. Short Title—This Act may be cited as the Animal Remedies Amendment Act 1969, and shall be read together with and deemed part of the Animal Remedies Act 1967* (hereinafter referred to as the principal Act).

* 1967, No. 51
Amendment: 1968, No. 67

2. Interpretation—Section 2 of the principal Act is hereby amended by inserting in subsection (1), after the definition of the term “disease”, the following definition:

“‘Experimental animal’ means any animal kept and used for the purpose of testing, developing, or producing any animal remedy or of experimenting with any such remedy; and includes the carcass or any part of the carcass of any such animal.”. 5

3. Membership of the Board—Section 5 of the principal Act is hereby amended— 10

(a) By omitting from paragraph (i) of subsection (2) the words “New Zealand Agricultural Chemical Manufacturers’ Federation”, and substituting the words “Agricultural Chemicals and Animal Remedies Manufacturers’ Federation of New Zealand”: 15

(b) By omitting from paragraph (j) of subsection (2) the words “New Zealand Ethical Pharmaceutical Association Incorporated”, and substituting the words “Pharmaceutical Manufacturers’ Association (New Zealand) Incorporated”. 20

4. Delegation by the Board—Section 10 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Without limiting its powers of delegation under subsection (1) of this section, the Board may from time to time delegate to the Registrar all or any of its powers, duties, and functions relating to— 25

“(a) The approval of labels under section 36 of this Act; 30
“(b) The approval of advertisements under section 41 of this Act;

“(c) The approval of the sale of any experimental animal under section 63A of this Act and the imposition of conditions relating to the sale of any such animal under that section.”

5. Functions and powers of the Board—Section 11 of the principal Act is hereby amended by omitting from paragraph (c) of subsection (3) the words “for which a licence has been issued or which is the subject of an application for a licence”, and substituting the words “(whether a licence has been issued for it or not)”. 40

6. Prohibition on manufacture or importation of animal remedies without licence—(1) Section 18 of the principal Act is hereby amended by adding to subsection (1) the following proviso:

5 “Provided also that nothing in this section shall prohibit any person from manufacturing or importing any animal remedy, notwithstanding that a licence has not been issued in respect of it, if he ensures that the following conditions are complied with:

10 “(a) The manufacture or importation is for the sole purpose of testing and developing the remedy or for carrying out experiments on or in respect of it:

“(b) The remedy is not sold to any person:

15 “(c) The remedy is not used on any animal except an experimental animal:

“(d) If the remedy is used on any experimental animal, the animal is not sold in contravention of section 63A of this Act.”

20 (2) The said section 18 is hereby further amended by adding to subsection (2) the words “and, in the case of a continuing offence, to a further fine not exceeding \$20 for each day on which the offence has continued”.

7. Provisional licences—Section 24 of the principal Act is hereby amended by omitting from subsection (1) the words
25 “either for a trial period or for experimental purposes”, and substituting the words “for a trial period”.

8. Appeals from decisions of the Board—(1) The principal Act is hereby further amended by repealing section 34, and substituting the following section:

30 “34. (1) Any person affected by a decision of the Board—
“(a) Refusing an application by him for a licence under this Act; or

“(b) Refusing an application by him for the renewal of any such licence; or

35 “(c) Refusing to approve the issue or renewal of any such licence except subject to conditions; or

“(d) Revoking or suspending any such licence; or

40 “(e) Refusing to give approval to any proposed label or advertisement, or to approve a proposed label or advertisement except subject to conditions; or

“(f) Directing the surrender or disposal of an animal remedy or ingredient of a remedy, or any label or container—

may, within 28 days after the date on which notice of the decision has been given to him by the Registrar, appeal to the Supreme Court against the whole or any part of the decision. 5

“(2) Every such appeal shall be heard and determined by the Administrative Division of the Supreme Court and two assessors (in this section referred to as the Court). 10

“(3) The assessors in respect of each such appeal shall be appointed by the Minister of Justice. One of them shall be appointed on the nomination of the Board and the other on the nomination of the appellant.

“(4) At the hearing of the appeal, the Court shall hear all evidence tendered and representations made by or on behalf of the appellant, the Board, and other persons which the Court considers relevant to the subject-matter of the appeal. 15

“(5) The Court may at the hearing receive as evidence any statement, document, information, or matter that may in its opinion assist it to deal effectually with the matters before it, whether or not it would be otherwise admissible in a court of law. 20

“(6) The Court in its discretion may, having regard to the interests of all parties concerned and to the public interest, order that the hearing or any part of it shall be held in private. 25

“(7) The decision of the Judge of the Court and at least one of the assessors shall be the decision of the Court; but if neither of the assessors is in agreement with the Judge, the decision of the Judge shall be the decision of the Court. 30

“(8) Subject to the provisions of this section, the procedure in respect of any appeal shall be in accordance with rules of Court.

“(9) After hearing the appeal, the Court may— 35

“(a) Confirm, modify, or reverse the decision or part of the decision appealed against:

“(b) Order that any animal remedy or ingredient of the animal remedy or any label or container (being an animal remedy, ingredient, label, or container that has been impounded, sealed, or secured by any inspector under this Act) be returned to the appellant: 40

“(c) Order that a licence be granted to the appellant, or that any licence which has expired or is due to expire be renewed, or that a licence be restored to its holder, or order the cancellation of any decision of the Board suspending the licence, or make such other order as the case may require:

“(d) Approve any label or advertisement subject to such conditions as it may specify:

“Provided that nothing in this subsection shall be construed to give the Court power to review any part of the Board’s decision other than the part against which the appellant has appealed.

“(10) Where the Board revokes any licence issued under this Act or under any regulations made under this Act or refuses to renew any licence on an application for its renewal, the licence shall, notwithstanding the Board’s decision, be deemed to be only suspended pending the disposal of any appeal under this section, or the expiration of the time for lodging notice of appeal, or the withdrawal of any such appeal, whichever last occurs.

“(11) Notwithstanding anything in subsection (10) of this section, the Board in its discretion may decide that a licence which it has revoked or suspended shall remain valid pending the disposal of any appeal or the expiration of the time for lodging an appeal under this section.”

(2) Section 65 of the principal Act is hereby consequentially amended by repealing paragraph (v).

9. Offences relating to the sale and uses of animal remedies—(1) Section 40 of the principal Act is hereby amended by omitting from subsection (2) the word “dealer” wherever it appears, and substituting in each case the word “person”.

(2) The said section 40 is hereby further amended by omitting from paragraph (a) of subsection (5) the words “an animal kept solely for experimental purposes”, and substituting the words “an experimental animal”.

10. Advertisements to state number of licence, etc.—Section 41 of the principal Act is hereby amended by repealing subsection (6), and substituting the following subsection:

“(6) Every advertisement published in respect of any licensed animal remedy shall include a statement to the effect that it is licensed under this Act and shall state the number of the licence, but no other reference shall be made in the advertisement which, either expressly or by implication, states that the remedy is approved by the Board or the Department of Agriculture or by any member of the Board or any officer of the Department.”

11. Sending or carrying an animal remedy under a false description—The principal Act is hereby further amended by repealing section 63, and substituting the following section:

“63. Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$200, who—

“(a) Sends or carries in any ship or aircraft or by any other means of transport, or sends or delivers to any warehouse owner or carrier, any animal remedy knowing that no licence has been issued in respect of it; or

“(b) Sends or carries in any ship or aircraft or by any other means of transport, or sends or delivers to any warehouse owner or carrier, any animal remedy under any description which the sender or carrier knows to be false; or

“(c) With intent to deceive, falsely describes the carrier or sender of any animal remedy, whether orally or in any document:

“Provided that no offence is committed against paragraph (a) of this section if the remedy is exempted under section 3 of the Act from being licensed or if the remedy is being sent, carried, or delivered, as the case may be, for the sole purpose of testing or developing the remedy or for carrying out experiments on or in respect of it.”

12. Restrictions on sale of experimental animals—The principal Act is hereby further amended by inserting, after section 63, the following section:

“63A. (1) Where any person maintains an experimental animal, he shall not sell that animal to any other person unless he has first obtained the approval of the Board.

“(2) In giving approval for the sale of any such animal the Board may impose such reasonable conditions in respect of the sale or use or both the sale and use of the animal as may be necessary to safeguard human or animal health or
5 both.

“(3) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$1,000, who—

- “(a) Wilfully sells any experimental animal in contravention of subsection (1) of this section; or
10 “(b) Without reasonable excuse, fails to comply with any condition imposed under subsection (2) of this section; or
“(c) Knowingly uses or permits the use of any such animal as food for human or animal consumption in con-
15 travention of any condition imposed under the said subsection (2).”