

ANIMAL REMEDIES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Animal Remedies Act 1967.

The principal purpose of the Bill is to alter the way in which the Animal Remedies Board can impose greater controls in respect of those animal remedies that, because of their nature, are potentially more hazardous than other remedies. At present, the Board's powers are set out in section 22 (2) of the principal Act in a somewhat cramped manner. That provision allows the Board to impose a condition in any licence issued by it restricting the remedy named in the licence—

- (a) From being sold to any person other than a veterinary surgeon or a dealer, or otherwise than pursuant to the prescription of a veterinary surgeon; and
- (b) From being used otherwise than by or under the supervision of a veterinary surgeon.

Under this Bill, a new *section 22A* is inserted in the principal Act (*clause 4*), empowering the Board to designate any animal remedy as a prescription animal remedy, and to classify any such remedy so designated as belonging to 1 of the following classes:

- (a) Class I prescription animal remedies, being those remedies that may be administered either by or in the presence of a veterinary surgeon, or by the owner (or his agent) of the animal if the remedy is prescribed or dispensed by a veterinary surgeon following a veterinary consultation (which term is defined in *clause 2*):
- (b) Class II prescription animal remedies, being those remedies that may be administered to an animal only by a veterinary surgeon or in the presence and under the direct control of a veterinary surgeon:
- (c) Class III prescription animal remedies, being those remedies that may be administered to an animal only—
 - (i) By a veterinary surgeon; or
 - (ii) By any other person or class of persons specifically authorised to administer such an animal remedy by or under regulations made under this Act or any other Act.

The amendments in *subclauses (2) and (3) of clause 2*, and *clauses 4, 7, and 8* implement the new scheme.

The other amendments are to be found in *clauses 2 (1), 3, 5, 6, 9, and 10*.

Clause 2 (1) extends the definition of the term “animal remedy” in the principal Act to include substances that are used in the testing of any animal in relation to any disease, and *subclause (2)* excludes substances designed to improve the appearance of any animal.

Clause 3 provides for the appointment of temporary (as well as full-time) inspectors.

Clause 5 relates to the reissue of existing licences. Section 26 provides that a licence is personal to a particular person and cannot be transferred to any other person. Thus, the purchaser of the rights of manufacture of a licensed remedy must go through the whole procedure of applying for a new licence. Under this clause, the vendor will be required to surrender his licence to the Board, and the Board will be empowered to reissue the licence to the purchaser, subject to appropriate conditions being met.

Clause 6 widens the disciplinary powers of the Board to cover cases where the licensee fails to pay prescribed fees.

Clause 9 changes the manner in which the Board can control the advertising of animal remedies. At present, all advertising material must be submitted to the Board for approval before it is published. Under this clause prior approval will not be required, but the Board is given power to intervene and require changes where necessary in particular cases.

Clause 10 provides for annual licence fees to be prescribed.

Hon. Colin Moyle

ANIMAL REMEDIES AMENDMENT

ANALYSIS

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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, as
5 follows:

- 1. Short Title and commencement**—(1) This Act may be cited as the Animal Remedies Amendment Act 1985, and shall be read together with and deemed part of the Animal Remedies Act 1967* (hereinafter referred to as the principal Act).
- 10 (2) This Act shall come into force on the 28th day after the date on which it receives the Governor-General's assent.

*1967, No. 51

Amendments: 1968, No. 67; 1969, No. 51; 1971, No. 81; 1972, No. 47; 1976, No. 73;
1981, No. 59; 1982, No. 59

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

“(aa) Testing any animals in relation to any disease; or”

(2) Section 2 (1) of the principal Act is hereby further amended by omitting from paragraph (c) of that definition the words “productivity, or appearance”, and substituting the words “or productivity”.

(3) Section 2 (1) of the principal Act is hereby further amended by inserting, after the definition of the term “prescribed”, the following definition:

“ ‘Prescription animal remedy’ means a remedy that is for the time being declared by the Board under **section 22A** of this Act to be a prescription animal remedy.”

(4) Section 2 (1) of the principal Act is hereby further amended by inserting, after the definition of the term “use”, the following definition:

“ ‘Veterinary consultation’, in relation to any animal, means—

“(a) An examination of that animal by a veterinary surgeon; or

“(b) The questioning of the owner or the agent of the owner of that animal by a veterinary surgeon to enable the veterinary surgeon to make a diagnosis or assessment of the condition of the animal on which he can properly base a decision relating to the prescription of any animal remedy for that animal.”

3. Appointment of officers—Section 16 (2) of the principal Act is hereby amended by inserting, after the words “a temporary analyst”, the words “or a temporary inspector”.

4. Prescription animal remedies—(1) The principal Act is hereby amended by inserting, after section 22, the following section:

“22A. (1) The Board may, on the issue of a licence, or at any time thereafter by notice in writing to the holder of the licence, if it thinks it is desirable to do so having regard to the nature of any animal remedy, declare that animal remedy to be a prescription animal remedy of 1 of the following classes:

“(a) Class I prescription animal remedies, being those remedies that may be administered to an animal only—

“(i) By or in the presence of a veterinary surgeon;

or

“(ii) By the owner or the agent of the owner of the animal, the remedy having been prescribed or dispensed by a veterinary surgeon following a veterinary consultation in respect of that animal:

5 “(b) Class II prescription animal remedies, being those remedies that may be administered to an animal only by a veterinary surgeon or in the presence and under the direct control of a veterinary surgeon:

10 “(c) Class III prescription animal remedies, being those remedies that may be administered to an animal only—

“(i) By a veterinary surgeon; or

15 “(ii) By any other person or class of persons specifically authorised to administer such an animal remedy by or under regulations made under this Act or any other Act.”

(2) Section 21 (6) of the principal Act is hereby amended by repealing paragraph (d), and substituting the following paragraph:

20 “(d) Where the Board declares the animal remedy to be a prescription animal remedy, the fact of that declaration and the class of prescription animal remedy specified in the declaration.”

(3) Section 22 (2) of the principal Act is hereby repealed.

25 **5. Transfer of licences**—(1) The principal Act is hereby amended by inserting, after section 26 (as amended by **subsection (2)** of this section), the following section:

30 “26A. (1) Where the licensee of any animal remedy ceases to be the manufacturer or, as the case may be, the importer or distributor of the animal remedy, he shall notify the Registrar in writing to that effect and shall surrender the licence to the Registrar with that notice.

35 “(2) On application by any person who has acquired such rights in respect of that animal remedy as would entitle him to apply for a licence to manufacture or, as the case may be, to import or distribute the remedy, the Board, may, instead of requiring the applicant to seek a new licence in accordance with the foregoing provisions of this Act, reissue to the applicant the licence surrendered under **subsection (1)** of this section, if the Board is satisfied—

40 “(a) That the applicant does not intend to alter the remedy in any material way; and

45 “(b) That there are no reasonable grounds for cancelling the licence under any of paragraphs (a), (c), and (g) to (k) of section 28 (1) of this Act; and

“(c) That the remedy still conforms to the standards prescribed by this Act or any regulations made under this Act; and

“(d) That the premises, plant, or techniques used or proposed to be used in the manufacture of the remedy are still or will be adequate for the production of a safe and efficient remedy, and that the staff employed or to be employed in the production of the remedy are or will be suitably qualified. 5

“(3) The reissue of any licence under **subsection (2)** of this section shall be subject to such conditions relating to the alteration of any label in respect of the animal remedy as may be required by this Act or any regulations made under this Act. 10

“(4) Where the Board reissues a licence under this Act, the Registrar shall— 15

“(a) Make an appropriate entry in the register of licences kept and maintained under section 31 of this Act; and

“(b) Publish in the *Gazette* a notice containing the following particulars: 20

“(i) The trade name of the animal remedy:

“(ii) The name and principal business address of the manufacturer or importer or distributor who surrendered the licence: 25

“(iii) The name and principal address of the manufacturer or importer or distributor to whom the licence is reissued:

“(iv) The number of the licence and the date of its reissue. 30

“(5) On and after the reissue to any person of a licence under this section, that person shall be deemed for all the purposes of this Act to be the licensee of the animal remedy.

“(6) Every licensee commits an offence and is liable on summary conviction to a fine not exceeding \$100 who fails, without reasonable excuse, to comply with **subsection (1)** of this section.” 35

(2) Section 26 of the principal Act is hereby amended by adding the following subsection:

“(5) Nothing in this section shall limit or affect the Board’s powers to reissue a licence under **section 26A** of this Act.” 40

6. Revocation and suspension of licences—Section 28 (1) of the principal Act is hereby amended by inserting, after paragraph (n), the following paragraph:

“(na) That the licensee has failed or refused to pay any fee payable by him in respect of the licence in accordance with any regulations made under this Act; or”.

5 **7. Labelling**—Section 36 (1) of the principal Act is hereby amended by repealing paragraph (j), and substituting the following paragraph:

“**(j)** In the case of a prescription animal remedy,—
10 “(i) The letters (in bold capitals) ‘P.A.R.’; and
 “(ii) The expression ‘Class I’ or (as the case may require) ‘Class II’ or ‘Class III’; and
 “(iii) A list of the active ingredients of the remedy.”

15 **8. Offences relating to the sale and use of animal remedies**—Section 40 of the principal Act is hereby amended by adding the following subsection:

“**(6)** Every person commits an offence and is liable on summary conviction to a fine not exceeding \$200 who, without reasonable excuse, administers any animal remedy that the
20 Board has classified under **section 22A** of this Act otherwise than in accordance with the terms of the Board’s classification.”

25 **9. Advertisements**—(1) The principal Act is hereby amended by repealing section 41, and substituting the following section:

“**41.** (1) Subject to **subsection (2)** of this section, no reference
shall be made in any advertisement in respect of an animal
remedy to the licensing of the remedy, except a statement that
it has been licensed in accordance with the Board’s directions
under this Act.

30 “(2) Every advertisement in respect of a prescription animal remedy shall include the letters and words required by **section 36 (1) (j)** of this Act to be included in labels on containers of the remedy, and such other statements (if any) as the Board may direct.

35 “(3) No advertisement shall be published in respect of an animal remedy that is not licensed under this Act, or that is provisionally licensed under section 24 of this Act.

40 “(4) Where the Board is satisfied that an advertisement published by the licensee in respect of any animal remedy contains any inaccurate or misleading statement, or otherwise contravenes any of the requirements of this Act or of any regulations made under this Act relating to advertisements, it

may direct the licensee to omit or modify the statement, or otherwise amend the statement, in such manner as the Board may determine.

“(5) Where the Board is satisfied that any person has published an advertisement—

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“(a) In respect of an animal remedy that is not licensed under this Act, or that is provisionally licensed under section 24 of this Act; or

“(b) That contains any inaccurate or misleading statement,— it may require that person to submit to the Board every advertisement published or to be published by that person in respect of any animal remedy or all animal remedies for which that person holds a licence during such period as the Board may determine or until further notice from the Board.

“(6) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$200 who—

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“(a) Publishes any advertisement that contravenes **subsection (1)** of this section or does not comply with **subsection (2)** of this section; or

“(b) Publishes any advertisement in contravention of **subsection (3)** of this section; or

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“(c) Fails or refuses, without reasonable excuse, to submit to the Board any advertisement required to be so submitted under **subsection (5)** of this section; or

“(d) Having submitted an advertisement to the Board when required to do so under **subsection (5)** of this section, publishes the advertisement without the Board’s approval or otherwise than in accordance with the terms of that approval.”

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(2) Section 10 of the Animal Remedies Amendment Act 1969 is hereby repealed.

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10. Regulations—Regulation 65 of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) Prescribing annual fees in respect of any licences held under this Act:”.

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