



REPUBLIC OF VANUATU
LIVESTOCK MANAGEMENT
ACT NO. 19 OF 2018

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REPUBLIC OF VANUATU

Assent: 06/07/2018
Commencement: 28/08/2018

LIVESTOCK MANAGEMENT ACT NO. 19 OF 2018

An Act to provide for the management of livestock in Vanuatu.

Be it enacted by the President and Parliament as follows-

PART 1 PRELIMINARY

1 Interpretation

In this Act, unless a contrary intention appears:

approved compliance arrangement means a compliance arrangement in respect of which:

- (a) the Minister has granted an approval under section 15; and
- (b) the Minister has sent a letter of approval under section 19; and
- (c) the terms of the letter of approval have been accepted by the controlling authority under subsection 19(3);

Committee means the Livestock Standards Committee established under section 7;

compliance arrangement means:

- (a) a quality assurance program; or
- (b) an inspection and certification arrangement;

controlling authority means a person, statutory body, company or association or body of persons corporate or incorporate that is responsible for a compliance arrangement;

Department means the Department of Livestock;

Director means the Director of the Department of Livestock;

inspection and certification arrangement means an arrangement that:

- (a) provides for inspection and certification; and
- (b) meets the criteria prescribed by the Regulations;

inspector means:

- (a) a person appointed under section 31; or
- (b) a meat inspector appointed under paragraph 10(c) of the Meat Industry Act [CAP 213]; or
- (b) a veterinary officer appointed under the Animal Disease (Control) Act [CAP 220];

livestock means:

- (a) any animal kept for the purpose of primary production, including cattle, pigs, poultry, sheep, goats and ducks; or
- (b) horses, including where used for recreation; or
- (c) any animals prescribed as livestock;

livestock management activity means any activity that relates to the health, husbandry or biosecurity of livestock during any stage of the livestock's life, from birth to slaughter, including the transport and holding of livestock;

livestock management standard means:

- (a) a standard published under section 6; or
- (b) any other standards relating to the management of livestock published under this Act or any other Act.

livestock operator means:

- (a) a person operating a business that engages in a regulated livestock management activity; or
- (b) a person in charge of livestock;

Minister means the Minister responsible for livestock;

notice of suspension means a notice issued under section 25 or section 51;

notice to comply means a notice issued under section 48;

person includes a partnership and an unincorporated body;

person in charge, in relation to livestock means:

- (a) a person who has the livestock in the person's possession or custody or under the person's care, control or supervision; or
- (b) if a person referred to in paragraph (a) is required to comply with a direction of an owner of livestock, or an employee or agent of the owner, the owner, employee or agent;

place includes premises or a vehicle or a ship;

police officer has the same meaning as in the Police Act [CAP 105];

prescribed livestock management standard means a livestock management standard prescribed by the Regulations;

regulated livestock management activity means any livestock management activity to which a prescribed livestock management standard relates;

suitable person means a person with qualifications and or expertise in different livestock activities;

systematic risk assessment means a risk assessment conducted under section 4;

warrant means a search warrant issued under section 34.

2 Application

- (1) If a provision of this Act conflicts with a provision of any other Act other than the Constitution, the provisions of this Act prevail.

- (2) Where there is a conflict between the requirements of a prescribed livestock management standard and any requirements, standard or applicable code under an Act, compliance with the requirement, prescribed standard or applicable code will be taken to be compliance with the prescribed livestock management standard under this Act.

PART 2 DUTIES CONCERNING LIVESTOCK MANAGEMENT STANDARDS

3 Livestock operator must comply with prescribed livestock management standards

A livestock operator must comply with all applicable prescribed livestock management standards when engaging in a regulated livestock management activity.

4 Livestock operator must carry out systematic risk assessment

(1) A livestock operator who carries out a regulated livestock management activity must carry out a systematic risk assessment of the livestock management activity.

(2) The systematic risk assessment must be carried out by the livestock operator within 6 months after:

- (a) the prescribed livestock management standard that applies to the regulated livestock management activity is prescribed; or
- (b) the livestock operator commences to carry out the regulated livestock management activity.

5 Content of systematic risk assessment

(1) A systematic risk assessment of a regulated livestock management activity must contain the following:

- (a) an assessment of the likely risks to animal welfare and biosecurity arising from the regulated livestock management activity; and
- (b) details of control measures to ensure that:
 - (i) the prescribed livestock management standard is and will be complied with; and
 - (ii) the risks identified under paragraph (a) are minimised.

- (2) A copy of the systematic risk assessment report must, within 21 days of its completion be given to:
- (a) the Director: and
 - (b) the Principal Veterinary Officer; and
 - (c) the controlling authority.

6 Minister may declare intention to prescribe livestock management standard

- (1) The Minister may, on the advice of the Committee, publish by notice in the Gazette, a declaration of intention to prescribe a livestock management standard.
- (2) The notice published under subsection (1), must contain a copy of the livestock management standard that is the subject of the declaration.

PART 3 LIVESTOCK STANDARDS COMMITTEE

7 Establishment of the Livestock Standards Committee

The Livestock Standards Committee is established.

8 Functions of the Committee

- (1) The Committee has the following functions:
 - (a) to consult with livestock operators prior to the issuance of any prescribed livestock management standard; and
 - (b) to advise the Minister on any proposed livestock management standard to be issued as a prescribed livestock management standard under this Act; and
 - (c) to inform the Minister of a livestock operator approved by the Committee for the purposes of this Act; and
 - (d) to advise the Minister on any livestock activity to be prescribed as a regulated livestock management activity for the purposes of this Act; and
 - (e) to carry out such other functions as may be conferred on the Committee under this Act or any other Act.
- (2) An advice of the Committee to the Minister must be made in writing and:
 - (a) contain the reasons why the Committee is advising the Minister to prescribe any livestock activity to be a regulated livestock management activity; and
 - (b) contain the reasons why the Committee is advising the Minister to prescribe the livestock management standard; and
 - (c) specify the time frame within which the prescribed livestock management standard is to come into operation; and
 - (d) contain a draft of the prescribed livestock management standard.

- (3) To avoid doubt, the Committee may request:
- (a) a livestock operator to provide such information as it requires to determine livestock standards; or
 - (b) a livestock officer, an inspector, or a livestock operator to provide information to the Committee to assist the Committee in carrying out its functions under subsection (1).

9 Powers of the Committee

The Committee has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

10 Composition of the Committee

- (1) The Committee consists of the following members who are to be appointed by the Minister:
- (a) the Director; and
 - (b) a representative of livestock operators from TORBA, PENAMA, SANMA, MALAMPA, SHEFA, and TAFEA selected by the livestock operators in each Province; and
 - (c) a representative of the butchers selected by the butchers; and
 - (d) a suitable person.
- (2) A member appointed under paragraphs (1)(b),(c) and (d) holds office for a period of three years and may be re-appointed for another term.

11 Sitting allowance

The Minister is to prescribe by Order, the sitting allowance for the members of the Committee appointed under paragraphs 10(1)(b), (c) and (d) for attending the meetings of the Committee.

12 Chairperson and Deputy Chairperson of the Committee

- (1) The Director is to be the Chairperson of the Committee.

- (2) The members of the Committee are to elect from amongst themselves the Deputy Chairperson of the Committee for a term of 1 year.

13 Meetings of the Committee

- (1) The Committee is to meet at least 2 times a year and may hold such other meetings as are necessary for the proper performance of its functions.
- (2) The Chairperson is to preside at all meetings of the Committee and in his or her absence, the Deputy Chairperson is to preside at these meetings.
- (3) The secretariat of the Committee is to be provided by the Department.
- (4) At the meeting of the Committee, a quorum consists of:
- (a) the Chairperson or the Deputy Chairperson if the Chairperson is for any reason unable to preside at the meeting; and
 - (b) 4 other members of the Committee,
- present at that meeting.
- (5) A member present at a meeting of the Committee has one vote and questions arising at a meeting are to be decided by a majority of votes.
- (6) If the voting at a meeting is equal, the Chairperson or the Deputy Chairperson (if he or she is chairing the meeting) has a casting vote.
- (7) The Committee may, from time to time, invite persons with appropriate qualification, experience and or expertise to attend any meetings of the Committee to provide expert advice to the Committee on any matter before the Committee that requires such expert advice.
- (8) Subject to this Act, the Committee may determine and regulate its own procedures.

PART 4 COMPLIANCE ARRANGEMENTS

14 Exemption for approved compliance arrangements

Subject to this Act, a livestock operator who carries out a regulated livestock management activity under an approved compliance arrangement is not required to comply with:

- (a) section 4 or 5; or
- (b) any provision under the Regulations that creates an offence for failing to comply with a prescribed livestock management standard.

15 Application to approve compliance arrangement

- (1) A controlling authority must apply to the Minister for approval of a compliance arrangement in respect of a regulated livestock management activity.
- (2) An application under subsection (1) must be in the form approved by the Minister.
- (3) The controlling authority must, on the request of the Minister, provide to the Minister any further information about the compliance arrangement.

16 Approval of compliance arrangement

- (1) The Minister may, on the advice of the Committee, approve an application for a compliance arrangement made under section 15.
- (2) The approval of application for the compliance arrangement under subsection (1) is to be published by notice in the Gazette.

17 Content of compliance arrangement

A compliance arrangement for a regulated livestock management activity must contain the following:

- (a) a description of the quality assurance program or inspection and certification arrangement that constitutes the compliance arrangement; and

- (b) an assessment of the likely risks to animal welfare, biosecurity, biodiversity and human health that are posed by the relevant regulated livestock management activity; and
- (c) strategies to ensure that the prescribed livestock management standard is complied with; and
- (d) a system for accrediting livestock operators who are covered by the compliance arrangement; and
- (e) verification arrangements that are designed to ensure that the compliance arrangement is complied with; and
- (f) any other prescribed measures that are in place to ensure that any other requirement, as determined by the Minister under this Act is complied with.

18 Criteria for approval of compliance arrangement

The Minister may approve a compliance arrangement under section 16, if he or she is satisfied that:

- (a) the compliance arrangement contains the information required by section 17; and
- (b) the compliance arrangement will ensure that the prescribed livestock management standards will be complied with.

19 Minister to issue letter of approval

- (1) The Minister, upon granting an approval under section 16, must issue to the controlling authority a letter of approval.
- (2) A letter of approval issued under subsection (1) must contain the following:
 - (a) the terms of approval of the compliance arrangement; and
 - (b) any specific actions that are required under the compliance arrangement; and

- (c) any monitoring and reporting requirements in respect of the compliance arrangement; and
 - (d) details of the acts or omissions that will constitute major non-conformance by the controlling authority with the compliance arrangement; and
 - (e) details of the effect of non-compliance with the compliance arrangement; and
 - (f) any requirements regarding the system by which livestock operators will be accredited to operate under the approved compliance arrangement; and
 - (g) any requirements for the manner in which the controlling authority is to communicate with and report to the Department regarding the compliance arrangement; and
 - (h) any conditions imposed by the Minister on the advice of the Committee; and
 - (i) in relation to a regulated livestock management activity, any details of acts or omissions that may result in the notice of suspension.
- (3) Within 21 days of receiving a letter of approval, a controlling authority must give written notice to the Minister as to whether it accepts the terms of the letter of approval.
- (4) An approved compliance arrangement may contain any other provision approved by the Minister and the controlling authority.

20 Minister to provide reasons for not approving a compliance arrangement

If the Minister refuses an application for approval of a compliance arrangement, the Minister must, by notice in writing, within 7 days from the date of the decision, provide reasons to the controlling authority why the application was refused.

21 Compliance monitoring

- (1) The Director must keep under regular review the extent of compliance with the terms of each approved compliance arrangement.
- (2) The Director may require inspectors and livestock officers to provide regular reports to the Director on the extent of the compliance with the terms of each compliance arrangement.

22 Minister may amend conditions of approved compliance arrangement by written notice

- (1) The Minister may by notice in writing and, on the advice of the Committee, impose further conditions on an approved compliance arrangement to a controlling authority.
- (2) Any condition imposed under subsection (1) takes effect on the date as specified in the notice.
- (3) Within 21 days of receiving notice of a condition under this section, a controlling authority must inform the Minister if it accepts the condition.

23 Audit of approved compliance arrangements

- (1) The Minister may, on the advice of the Committee, require any controlling authority that is a party to an approved compliance arrangement, to have the approved compliance arrangement audited for the purpose of determining whether the arrangement:
 - (a) has been complied with during the period covered by the audit; and
 - (b) is still adequate at the date of the audit.
- (2) A requirement under subsection (1):
 - (a) must be made in writing; and
 - (b) must be made on a one-off basis or may require an audit to be performed annually or at any other specified period; and
 - (c) must specify the minimum qualifications or experience that must be held by the person who is to conduct the audit; and

- (d) may impose restrictions relating to the suitability of persons to conduct the audit; and
- (e) must specify by when, how and by whom the results of the audit are to be reported to the Minister through the Office of the Director.

24 Revocation or suspension

- (1) The Minister may, on the advice of the Committee, revoke or suspend the approval of a compliance arrangement if the Minister considers that:
 - (a) there has been a failure to comply with the approved compliance arrangement and the failure is so serious that it cannot be dealt with by increased monitoring requirements under the arrangement; or
 - (b) a controlling authority has committed an act or omission that constitutes a major non-compliance with the approved compliance arrangement that was specified in the letter of approval; or
 - (c) a controlling authority has not accepted a condition imposed by the Minister under section 22 within the time specified in subsection 22(3); or
 - (d) there has been a failure to comply with any other requirement of the letter of approval.
- (2) If the Minister makes a decision under subsection (1), the Minister must give the controlling authority a written notice of the decision:
 - (a) setting out the reasons for the decision; and
 - (b) if the approval is suspended, setting out the period of suspension.
- (3) An approved compliance arrangement ceases to be an approved compliance arrangement:
 - (a) if the approval is revoked; or
 - (b) for the period that the approved compliance arrangement is suspended.

- (4) The Minister may at any time, by notice in writing to the controlling authority, revoke the suspension of the approved compliance arrangement.

25 Suspension of approval of livestock operator

- (1) The Minister may at any time, on the advice of the Committee, suspend an approved compliance arrangement that applies to a livestock operator, if the Minister is satisfied on reasonable grounds that a ground for suspension exists.
- (2) For the purposes of subsection (1), the grounds for suspension are:
- (a) that the livestock operator has committed an act or omission that was specified in the letter of approval relating to the approved compliance arrangement as being one which may give rise to a declaration under this section; or
 - (b) that the livestock operator has committed an offence against this Act; or
 - (c) that the livestock operator has committed an act or omission that would be an offence under the Regulations.
- (3) The Minister must give written notice of a suspension under subsection (1) to:
- (a) the person who is the subject of the suspension; or
 - (b) the controlling authority who is a party to the approved compliance arrangement.
- (4) A notice under subsection (3) must state:
- (a) the date on which the suspension takes effect; and
 - (b) the period for the suspension.

PART 5 ADMINISTRATION

26 Minister may approve forms

The Minister may, on the advice of the Committee, approve forms for the purposes of the relevant section of this Act or the Regulations made under this Act.

27 Minister may approve guidelines

- (1) The Minister may, on the advice of the Committee, approve guidelines relating to any requirement of this Act or the Regulations made under this Act.
- (2) Without limiting subsection (1), the Minister may approve guidelines in relation to all or any of the following:
 - (a) the approval and administration of compliance arrangements;
 - (b) measures a person may take to comply with prescribed livestock management standards;
 - (c) compliance by a person who is not an approved livestock operator and monitoring of the person in relation to regulated livestock activity.

28 The Minister and the Director must have regard to guidelines

The Minister and Director, when making a decision under this Act, must have regard to any relevant guidelines approved under section 27.

PART 6 ENFORCEMENT

Division 1 Inspectors

29 Inspectors

- (1) The Minister may by Order and, on the advice of the Director, appoint a suitable person or a livestock officer to be an inspector for the purpose of administering this Act.
- (2) An inspector appointed under subsection (1) is to hold office for a period not exceeding 3 years and may be re-appointed.
- (3) The Minister may, on the advice of the Committee, determine the terms and conditions of appointment of the inspector.
- (4) The terms and conditions of appointment under subsection (3) may contain general directions relating to how the inspector's power is to be exercised.
- (5) The Minister may in writing, and, on the advice of the Director, revoke the appointment of an inspector at any time.

30 Inspector's identification certificate

- (1) The Director must issue an identification certificate to each inspector under this Act which sets out the provisions of this Act and the purpose for which the inspector is appointed.
- (2) An inspector must produce the inspector's identification certificate:
 - (a) before the inspector exercises any power under this Act; or
 - (b) if requested to do so by any person in charge or who has apparent control of the place or thing under investigation.

31 Performance of an inspector's functions and powers

The inspector's functions and powers must be performed and exercised subject to and in accordance with this Act, Regulations made under this Act and the prescribed livestock management standard.

32 Powers of inspectors of livestock

A meat inspector appointed under paragraph 10(c) of the Meat Industry Act [CAP 213] or a veterinary officer appointed under the Animal Disease (Control) Act [CAP 220] may exercise any powers of an inspector of livestock under this Act for the purposes of this Act.

Division 2 Powers of entry

33 Power to enter and inspect with consent

- (1) If an inspector has reasonable grounds to believe that any provision of this Act, or the Regulations made under this Act or a prescribed livestock management standard has not or is not being complied with in respect of a place, the inspector may, at any reasonable time enter and search the place with the consent of the occupier of that place.
- (2) The inspector must not enter and search a place under this section, unless the occupier gives his or her consent for the entry and the search to take place.
- (3) Prior to the occupier giving his or her consent to the entry and the search to take place under subsection (2), the inspector must inform the occupier on the following matters:
 - (a) the purpose of the search; and
 - (b) the right that the occupier has in refusing to give consent to the entry and search; and
 - (c) the right that the occupier has in refusing to consent to the taking of any sample of livestock, livestock product or fodder during the search; and
 - (d) the right that the occupier has in refusing to allow an examination of livestock, livestock product, equipment, machinery or facility during the search; and
 - (e) the right that the occupier has in refusing to answer any questions during the search; and

- (f) the right that the occupier has in refusing to give consent to the taking of photographs (including video recordings) of a thing or things of a particular kind; and
 - (g) any sample of a thing taken during the search, with the consent of the occupier, may be used in evidence in proceedings.
- (3) If an occupier consents to the taking of a sample during a search under this section, the inspector must, before taking the sample, request the occupier to sign an acknowledgement form stating:
- (a) that the occupier has consented to the taking of the sample; and
 - (b) the date and time that the occupier consented to the taking of the sample.
- (4) An occupier who signs an acknowledgement form must be given a copy of the signed acknowledgement form before the inspector leaves the place.
- (5) This section does not limit any other power that an inspector may have to enter a place under this Act or any other Act.

34 Application for search warrants

- (1) Where an inspector has reasonable grounds to believe that:
- (a) a person or persons in connection with the place may have contravened this Act, the Regulations or a prescribed livestock management standard; and
 - (b) the inspector has been, or is likely to be, refused entry to the place,
- the inspector may, with the written approval of the Director, make an application accompanied by the evidence on oath or an affidavit to the Court for a warrant in respect of that place.
- (2) If an application is made under subsection (1) for a warrant, the Court may issue the warrant authorising an inspector or any other person or persons, with such assistance, and by such force, as is necessary and reasonable:
- (a) to enter the place; and

- (b) to exercise all or any of the powers set out in Division 3.
- (3) The Court may issue the warrant only if it is satisfied that:
 - (a) it is reasonably necessary that the inspector should have access to the place for the purpose of exercising the inspector's powers or performing the inspectors functions under this Act; and
 - (b) a contravention of this Act, the Regulations or a prescribed livestock management standard has been or suspected to have been committed, or is being or is likely to be committed within the next 72 hours.

35 Information to be included in a warrant

A warrant issued under section 34 must include the following information:

- (a) a statement of the purpose for which the warrant is issued including a reference of the nature of the relevant contravention; and
- (b) a description of the kind of place authorised to be entered; and
- (c) a time at which the warrant ceases to have effect; and
- (d) a statement stating whether the entry is authorised at any time or at specific times only; and
- (e) any conditions to which the warrant is subject to.

36 Announcement before entry

- (1) On executing a warrant, the inspector must announce that he or she is authorised by the warrant to enter the place.
- (2) If the inspector has reasonable grounds to believe that immediate entry to the place is required to ensure:
 - (a) the safety of any person; or
 - (b) that the effective execution of the warrant is not frustrated,

the inspector does not need to comply with subsection (1).

37 Details of warrant to be given to occupier

(1) If the occupier is present at a place where a warrant is being executed, the inspector must:

- (a) identify himself or herself to the occupier; and
- (b) provide a copy of the warrant to the occupier.

(2) If the occupier is not present at a place where a warrant is being executed, the inspector must:

- (a) identify himself or herself to any person at the place; and
- (b) provide a copy of the warrant to the person.

38 Emergency powers

(1) This section applies if an inspector has reasonable grounds to believe, that there has been a contravention of this Act or the Regulations in a place which has resulted or is likely to result in an emergency.

(2) The inspector must inform the occupier of that place about the emergency, and with the assistance of the police if required:

- (a) enter that place; and
- (b) exercise all or any powers set out in Division 3 without a warrant.

(3) For the purpose of this section, **emergency** means a situation where there is a threat or existence of an outbreak of infectious exotic livestock disease that poses an immediate risk to animal welfare, human health, biodiversity or biosecurity.

Division 3 Inspector's powers on entry

39 Application of Division

(1) This Division applies if an inspector has entered a place under Division 2.

- (2) An inspector must exercise the powers under this Division within the time he or she has informed the occupier of or in accordance with the time set out in the warrant.

40 Power to search, inspect or examine

An inspector may search, inspect or examine:

- (a) any premises that the inspector reasonably believes is or was used in connection with a regulated livestock management activity; or
- (b) any livestock, livestock product, equipment, machinery, item of plant or facility that the inspector believes is or was used in connection with a regulated livestock management activity; or
- (c) any vehicle that the inspector reasonably believes is or was used in connection with a regulated livestock management activity.

41 Powers regarding production of documents

- (1) An inspector may require a person to produce any document that is required under this Act and any other document that the inspector reasonably requires for the performance of his or her functions under this Act.
- (2) The inspector may:
- (a) examine the document; or
- (b) make copies of the document or take extracts from it; or
- (c) remove the document for as long as is reasonably necessary to make copies or take extracts.
- (2) If an inspector retains possession of a document seized from a person pursuant to a warrant under section 34 or seized in accordance with this Division, the inspector must, within 14 days of seizing the document give that person a copy of the document certified as correct by the inspector.

42 Power to require information

An inspector may require a person:

- (a) to answer a question to the best of that person's knowledge, information or belief and may make a video recording of the interview; or
- (b) to take reasonable steps to provide the information required.

43 Power to take samples

- (1) An inspector may take and remove samples of or from any livestock, livestock product or fodder for examination.
- (2) An inspector may submit any samples taken in accordance with this Act to a laboratory or a place approved by the Director for examination.
- (3) For the purpose of this section:

fodder means feed, water and feed ingredients;

samples means blood, urine, hair and secretions.

44 Power to take photographs, measurement, sketches or recordings

An inspector may take photos or measurements or make sketches or recordings.

Division 4 Further powers of inspectors

45 Power to stop and detain vehicles

- (1) An inspector may:
 - (a) stop and detain any vehicle; or
 - (b) direct any person in charge of or apparently in charge of the vehicle to proceed to a specified place and stop,

if the inspector has reason to believe that the vehicle is or was being used for a regulated livestock management activity.

- (2) Before giving a direction under paragraph (1)(b), an inspector must inform the person that the inspector reasonably believes that the vehicle is or was being used for a regulated livestock management activity.
- (3) To avoid doubt, the power to stop and detain vehicles includes the power to divert a vehicle from its normal route to another route.
- (4) For the purpose of this section, **vehicle** includes a ship or a plane.

46 Inspector may request assistance

An inspector may, in performing any function under this Act, request the assistance of any person, including a police officer, to perform that function.

47 Occupier not present

- (1) If an inspector exercises a power under Division 2 or 3 at a place and the occupier of that place is not present, the inspector must, before leaving the place, leave a notice of entry.
- (2) A notice given under subsection (1) must contain the following details:
 - (a) the time of entry; and
 - (b) the purpose of the entry; and
 - (c) a description of all the things done by the inspector while in the place; and
 - (d) the time of the departure; and
 - (e) the procedure for contacting the inspector for further details of the entry.

Division 5 Notice to comply

48 Inspector may issue notice to comply

- (1) If an inspector has reason to believe that a person has contravened, or failed to comply with:

- (a) a prescribed livestock management standard; or
- (b) section 4 or 5 of this Act; or
- (c) in the case of an approved livestock operator, an approved compliance arrangement,

the inspector may issue a notice to comply to the person.

49 Content of notice to comply

- (1) A notice to comply must include the following details:
 - (a) the prescribed livestock management standard, section of this Act, approved compliance arrangement or requirement set out in a letter of approval that is reasonably believed to have been contravened or not complied with; and
 - (b) the action that the person must undertake in relation to the contravention or non-compliance; and
 - (c) the time within which the required action must be taken.
- (2) Without limiting subsection (1), a notice to comply may include directions to do all or any of the following:
 - (a) improve the condition of specified premises, facilities, equipment or a vehicle to the degree required by a prescribed livestock management standard;
 - (b) replace specified facilities, equipment or a vehicle that may not comply with a prescribed livestock management standard;
 - (c) perform any other action to ensure compliance with this Act, the Regulations, an approved compliance arrangement, the requirements of a letter of approval or a prescribed livestock management standard.

50 Offence for failing to comply with notice to comply

- (1) A person who without reasonable excuse, knowingly, negligently or recklessly fails to comply with a notice to comply issued to him or her within the timeframe specified in the notice:
- (a) for a breach of section 4, commits an offence punishable on conviction to a fine not exceeding VT50,000; or
 - (b) for a contravention of or a failure to comply with a provision of this Act (other than section 4), commits an offence punishable on conviction:
 - (i) in the case of natural person- to a fine not exceedingVT300,000; and
 - (ii) in the case of a body corporate- to a fine not exceedingVT1,000,000.
- (2) An approved livestock operator operating under an approved compliance arrangement is not liable to be prosecuted for an offence under this section unless the approved compliance arrangement is suspended in respect of that livestock operator under section 25 or 51.

51 Inspector may issue notice of suspension

- (1) An inspector may, on the approval of the Director, issue a notice of suspension to the livestock operator:
- (a) if the inspector has reason to believe that:
 - (i) a livestock operator is operating under an approved compliance arrangement and has contravened, or fail to comply with, a notice to comply issued under section 50; or
 - (ii) a livestock operator is operating under an approved compliance arrangement and has committed an act or omission that was specified in the letter of approval relating to the approved compliance arrangement as being one which may result in a notice of suspension; or
 - (iii) a livestock operator has committed an offence against this Act or the Regulations; or

- (b) If a livestock operator has failed to comply with the prescribed livestock management standard and has failed to provide, on request by an inspector, sufficient information to satisfy the inspector that the livestock operator is operating under an approved compliance arrangement.
- (2) A notice of suspension under subsection (1) must specify:
 - (a) the date on which the suspension takes effect; and
 - (b) the period of the suspension.
 - (3) An inspector must provide a copy of a notice of suspension:
 - (a) to the controlling authority that is a party to the compliance arrangement to which the notice relates; and
 - (b) to the Director.
 - (4) To avoid doubt, a notice of suspension in this section relates to the compliance arrangements.

Division 6 Offence

52 Offence to endanger people or animals

- (1) A person who engages in a regulated livestock management activity and who without reasonable excuse, knowingly, negligently, or recklessly acts in a manner that results in a serious risk to:
 - (a) human health; or
 - (b) animal welfare; or
 - (c) biosecurity; or
 - (d) environment and biodiversity; or
 - (e) the spreading of disease,

commits an offence punishable on conviction:

- (i) in the case of a natural person-to a fine not exceeding VT300,000; or
 - (ii) in the case of a body corporate-to a fine not exceeding VT1,000,000.
- (2) An approved livestock operator is not liable to be prosecuted for an offence under this section if the act or omission occurred in the course of operating under an approved compliance arrangement unless the approved compliance arrangement is suspended in respect of that livestock operator under section 25 or 51.

Division 7 Penalty notice

53 Penalty notice

- (1) An inspector may serve a penalty notice on a person if it appears to the inspector that the person has committed an offence under this Act or the Regulations and the offence is one that is stated by the Regulations to be an offence to which this section applies.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay within a time and to a person specified in the notice the amount of penalty stated in the penalty notice.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, that person is not liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any proceeding arising out of the same occurrence.
- (6) The Regulations may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence; and

- (b) prescribe the amount of penalty payable for the offence if dealt with under this section; and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty prescribed in this Act.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

Division 8 Provisions related to Court proceedings

54 Power to file charges under this Act

A charge-sheet for an offence under this Act or the Regulations may only be filed by:

- (a) a police officer; or
- (b) an inspector.

55 Service of documents

Except where otherwise provided for in this Act, a notice other than a penalty notice, or other document authorized or required by this Act to be served on or given to a person is taken to have been served on or given to that person:

- (a) if it is delivered to the person personally; or
- (b) if it is left at the address of the person's last known residence or business premises with a person apparently over 18 years of age and apparently residing or employed there; or
- (c) if it is sent to the person by post.

56 Conduct by officers, employees or agents of a body corporate

- (1) If, in any proceedings under this Act or the Regulations, it is necessary to establish the state of mind of the body corporate in relation to particular conduct, it is sufficient to show:
 - (a) that the conduct was engaged in by an officer of that body corporate within the scope of the officer's actual or apparent authority and the officer had that state of mind; or
 - (b) that the conduct was engaged in by an agent of the body corporate:
 - (i) the agent acted at the specific direction or with the specific consent or agreement of the body corporate; and
 - (ii) the agent had that state of mind; and
 - (iii) the body corporate was aware of the agent's state of mind when the conduct was engaged in.
- (2) For the purposes of any proceedings under this Act or the Regulations, any conduct engaged in on behalf of a body corporate is taken to have been engaged in also by the body corporate if the conduct was engaged in by:
 - (a) an officer of the body corporate within the scope of the officer's actual or apparent authority; or
 - (b) any other person at the specific direction or with the specific consent or agreement of an officer of the body corporate, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the officer.

Division 9 General Provisions

57 Evidence of certain matters

- (1) A document appearing to be a copy of an instrument of appointment of an inspector, an approval granted under this Act or the Regulations or a notice issued under this Act, if accompanied by a certificate appearing to be signed by the Director to the effect that it is a copy, is evidence and, in the absence of evidence to the contrary, is proof of matters stated in the certificate.

- (2) A certificate appearing to be signed by the Director to the effect that, on a date specified in the certificate, a person held or did not hold an approval under this Act specified in the certificate is evidence and, in the absence of evidence to the contrary, is proof of matters stated in the certificate.

58 Offences relating to enforcement

- (1) A person who:

- (a) without reasonable excuse obstructs or hinders an inspector in exercising the inspector's powers under this Act; or
- (b) contravenes a lawful direction, order or requirement of an inspector; or
- (c) refuses to answer a question lawfully asked by an inspector or to produce a document lawfully required by an inspector; or
- (d) gives, procures, offers or promises any bribe, recompense, inducement or reward to influence an inspector in the exercise of the inspector's powers or the discharge of the inspector's functions under this Act or attempts to do in any of these acts; or
- (e) interferes with anything done by an inspector in the exercise of the inspector's powers under this Act,

commits an offence punishable on conviction to a fine not exceeding VT100,000.

- (2) A person who:

- (a) provides to an inspector any information or answer that is false or misleading; or
- (b) includes in an application or request to the Director under this Act, a statement that the person knows to be false or misleading in a material respect,

commits an offence punishable on conviction to a fine not exceeding VT100,000.

- (3) Despite anything to the contrary in this Act, a person may refuse to answer an inspector's question or to produce a document to the inspector if the person has reason to believe that the answer or the information in the document would tend to incriminate the person.

59 Livestock operators and employers responsible for the actions of their employees and contractors

A livestock operator or employer is liable under this Act for anything done or not done by an employee or contractor in the course of carrying out the regulated livestock management activity of the livestock operator or employer.

60 Evidence

In any legal proceedings under this Act and in the absence of evidence to the contrary, proof is not required of:

- (a) the appointment of a person as an inspector; or
- (b) the appointment of a livestock officer as an inspector; or
- (c) the appointment of any other employee in the Department for the purposes of this Act; or
- (d) the authority of an inspector appointed under section 29 to take proceedings for an offence under this Act.

61 Liability for offences

- (1) If two or more persons are guilty of an offence under this Act or the Regulations, each of those persons are liable to the penalty for that offence without affecting the liability of any other person.
- (2) Any person who aids or abets the commission of an offence under this Act or the Regulations is guilty of an offence.
- (3) If this Act or the Regulations provide that a person, being a partnership or an unincorporated body, is guilty of an offence, that reference to a person is not to be construed as a reference to each member of the partnership or of the committee of management of the unincorporated body (as the case may be).

PART 7 MISCELLANEOUS PROVISIONS

62 Protection of information supplied to inspectors

Any inspector who uses or discloses any information obtained under the provisions of this Act other than for the purposes of carrying out the inspector's functions under this Act or complying with any legal requirements, commits an offence punishable on conviction to a fine not exceeding VT300,000.

63 Regulations

- (1) The Minister may, on the advice of the Committee, make Regulations not inconsistent with this Act for the better carrying out or giving effect to the provisions of this Act.
- (2) Without limiting the generality of subsection (1), the Minister may make Regulations for all or any of the following:
 - (a) prescribe regulated livestock management activities;
 - (b) prescribe livestock management standards;
 - (c) prescribe offences and impose penalties not exceeding VT50,000 for any contravention of the Regulations or a prescribed livestock management standards;
 - (d) the manner of compliance with prescribed livestock management standards;
 - (e) grounds for the approval of a compliance arrangement;
 - (f) the criteria that must be included in the letter of approval;
 - (g) grounds for suspension or revocation of an approved compliance arrangement;
 - (h) prescribing fees and charges for the provision of services.

64 Commencement

- (1) Part 3 of this Act commences on the day on which it is published in the Gazette.

- (2) All other Parts of this Act commence on a date to be prescribed by the Minister by Order.