

Passed by both Houses



New South Wales

Apiaries Amendment Bill 2006

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2006*



New South Wales

Apiaries Amendment Bill 2006

Act No , 2006

An Act to amend the *Apiaries Act 1985* to provide for the relocation or forfeiture of beehives in certain circumstances and to make other miscellaneous amendments to the Act; to make consequential amendments to the *Apiaries Regulation 2005* and the *Rural Lands Protection Act 1998*; and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Apiaries Amendment Act 2006*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Apiaries Act 1985 No 16

The *Apiaries Act 1985* is amended as set out in Schedule 1.

4 Amendment of Apiaries Regulation 2005

The *Apiaries Regulation 2005* is amended as set out in Schedule 2.

5 Amendment of Rural Lands Protection Act 1998 No 143

The *Rural Lands Protection Act 1998* is amended as set out in Schedule 3.

6 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendment of Apiaries Act 1985

(Section 3)

- [1] **The whole Act (except the provisions amended elsewhere in this Schedule)**
Omit “registrar” wherever occurring. Insert instead “Director-General”.
- [2] **Section 3 Definitions**
Insert “, queen candy” after “propolis” in the definition of *apiary product* in section 3 (1).
- [3] **Section 3 (1), definitions of “brand” and “registrar”**
Omit the definitions.
- [4] **Section 3 (1)**
Insert in alphabetical order:
direct means direct by notice in writing.
queen candy means the substance made by kneading powdered sugar into honey (or into an invert sugar syrup) until a stiff dough is formed.
- [5] **Section 3 (6)**
Insert after section 3 (5):
(6) Notes included in this Act do not form part of this Act.
- [6] **Section 4 Registrar**
Omit the section.
- [7] **Section 8 Grant or refusal of application for registration**
Omit “the prescribed particulars of the applicant to be entered in the register of beekeepers and” from section 8 (3) (a).
Insert instead “the particulars required by section 13 (3) to be entered in the register of beekeepers in respect of the applicant and by”.
- [8] **Section 8 (3) (b)**
Omit “branded”. Insert instead “displayed”.
- [9] **Section 12 Cancellation of registration**
Omit “or 25” from section 12 (3) (d).

[10] Section 13 Director-General to keep register of beekeepers

Omit section 13 (1) and (2). Insert instead:

- (1) The Director-General is to keep a register of beekeepers for the purposes of this Act.
- (2) The register is to be kept in such form as the Director-General considers appropriate.

[11] Section 13 (8) and (9)

Insert after section 13 (7):

- (8) The requirement under subsections (5) and (6) for payment of a prescribed fee does not apply if the person inspecting the register and obtaining the relevant copy is an authorised officer who is doing so in the person's capacity as such an officer.
- (9) In this section, *authorised officer* means any of the following:
 - (a) an inspector,
 - (b) a police officer,
 - (c) an employee of a local council,
 - (d) any other person of a class approved by the Director-General for the purposes of this definition.

[12] Section 15 Beehives to be identified

Omit "branded" wherever occurring. Insert instead "displayed".

[13] Section 15 (2) (b) and (c)

Omit section 15 (2) (b). Insert instead:

- (b) be displayed on the outside wall of the broodbox, and
- (c) comply with such other requirements as may be prescribed.

[14] Section 15A

Insert after section 15:

15A Forfeiture of beehives in certain cases

- (1) **Unidentified beehives on public land**

An inspector may seize and remove any beehive that is on public land and is not identified.
- (2) Subsection (1) applies even if the period prescribed for the purposes of section 15 (1) has not expired in relation to the hive.

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- (3) A hive seized under subsection (1) is immediately forfeited to the Crown.
- (4) **Identified beehives on public land**
If an inspector is satisfied that an identified beehive is on public land without the permission of the controller of the land, the inspector may serve a notice on the owner of the hive:
- (a) requiring the owner, at the owner's option, either:
 - (i) to provide the inspector with evidence satisfactory to the inspector that the owner has obtained the permission of the controller of the land, or
 - (ii) to cause the hive to be removed, within 14 days after service of the notice, and
 - (b) informing the owner that, if the requirement is not complied with within that time, the hive will be forfeited to the Crown.
- (5) If the requirement is not complied with within the 14-day period, the hive is forfeited to the Crown and an inspector may seize and remove it.
- (6) **Unidentified beehives on private land**
Any beehive that is on land other than public land and is not identified is forfeited to the Crown and may be seized and removed by an inspector if:
- (a) for a period of 28 consecutive days there has been displayed in the immediate vicinity of the hive a notice complying with subsection (7), and
 - (b) a notice to similar effect has appeared, in a newspaper circulating generally in the State, at least once during the first 14 days of the 28-day period (or in such other publications, or at such other times, or both, as the regulations may prescribe),
- and the hive is not identified by the date specified in the notice or before the expiry of the period specified in section 15 (1) (as the case may require).
- (7) The notice must state that the beehive will be forfeited to the Crown unless, by the date specified in the notice (being a date that is at least 28 days after the notice is first displayed in the immediate vicinity of the hive), the owner of the hive either causes the hive to be identified or:

- (a) provides evidence satisfactory to an inspector that the period specified in section 15 (1) has not expired in relation to the hive, and
- (b) subsequently causes the hive to be identified before the expiry of that period or the expiry of the date specified in the notice (whichever is the later).

(8) **Forfeited beehives**

A beehive forfeited under this section is to be dealt with as the Director-General directs.

(9) **Expenses**

Any reasonable expenses incurred by an inspector or the Director-General in respect of a beehive forfeited under this section are payable by the owner of the hive (if the owner can be identified) and are recoverable from the owner in a court of competent jurisdiction as a debt due to the Crown.

(10) **No compensation**

No compensation is payable in respect of any beehive that is forfeited under this section.

(11) **Definitions**

In this section:

controller, in relation to public land, means the following:

- (a) if the land is reserved or dedicated for any public use or purpose—the trustee or trustees of the land,
- (b) if the land consists of a public road—the roads authority for that road within the meaning of the *Roads Act 1993*,
- (c) if the land consists of a travelling stock reserve—the responsible board within the meaning of Part 8 of the *Rural Lands Protection Act 1998*,
- (d) in any other case—the person having the care, control and management of the land.

identified, in relation to a beehive, means identified as required by section 15.

public land means:

- (a) Crown land within the meaning of the *Crown Lands Act 1989*, or
- (b) State forest, or
- (c) land under the control and management of a public or local authority,

but does not include:

- (d) any land (other than State forest) that is occupied under any lease or other arrangement for private purposes that confers a right to exclusive possession of the land, or
- (e) any land leased under the *Western Lands Act 1901*.

[15] Section 17 Abandoned or neglected bees or associated things

Omit “, by notice in writing served on the beekeeper,” from section 17 (1) (a) (i).

[16] Section 18 Power of Director-General to restrict beekeeping on certain premises

Insert after section 18 (6):

- (6A) The occupier of any premises is taken not to contravene an order under subsection (1) (d) if the occupier satisfies the Director-General that the occupier:
 - (a) does not own any beehives on the premises, and
 - (b) has not given permission for the beehives (or for beehives in excess of the number specified in the order) to be kept on the premises.
- (6B) In such a case, the occupier must, at the request of the Director-General or an inspector, provide to the Director-General or the inspector (as the case may be) such information (if any) as the occupier possesses as to the identity and residential address of the owner of the beehives concerned.
Maximum penalty: 20 penalty units.

[17] Section 18 (9)

Insert after section 18 (8):

- (9) If an order is in force under subsection (1) or (2) prohibiting the keeping of bees, or the keeping of more than a specified number of beehives, on any premises, the occupier of those premises must not grant permission to any person to keep bees or to keep more than the specified number of beehives (as the case may be) on those premises.
Maximum penalty: 20 penalty units.

[18] Section 18A

Insert after section 18:

18A Power of inspectors to relocate beehives in emergency

- (1) If an inspector is satisfied on reasonable grounds that the keeping of bees on particular premises is such a danger to public health or public safety as to warrant the immediate removal of the beehives from the premises concerned (*the old premises*), the inspector may:
 - (a) without notice, cause the beehives to be removed and relocated to such place (*the new premises*) as the inspector thinks fit, and
 - (b) request the Director-General (subject to the Director-General's being satisfied as referred to in section 18 (1) (b)), to prohibit, by order under section 18 (1) (d) (i) (*a prohibition order*), the keeping of bees on the old premises.
- (2) The beehives are to be returned to the old premises at the expiry of a period of 21 days after they were removed, unless a prohibition order is served during that period.
- (3) If a prohibition order is served during that period:
 - (a) the order takes effect immediately on service (despite section 18), and
 - (b) the beehives are not to be returned to the old premises unless the final determination of any application made under section 35 (2) in respect of the order is to the effect that they should be returned.
- (4) However, the owner of the beehives may, at any time, move the beehives to other premises approved by the Director-General.
- (5) An inspector may be satisfied under subsection (1), and the Director-General may be satisfied under section 18 (1) (b), even if the danger is to one person only, and even if the danger arises because of that person's allergy or particular susceptibility to bee venom.
- (6) No compensation is payable in respect of any beehive that is relocated under this section.

[19] Section 25 Restriction on introduction of bees into New South Wales

Omit the section.

[20] Section 32A

Insert after section 32:

32A Determination of compensation

- (1) The Director-General is to determine, in accordance with this Part:
 - (a) whether compensation is payable under this Part to a particular owner of bees, beehives or appliances, and
 - (b) the amount of any such compensation.
- (2) For the purposes of determining any such compensation, the Director-General is also to determine any market values or costs required to be determined for the purposes of section 31 (1).

[21] Section 35 Applications for review

Omit section 35 (1) (g).

[22] Section 35, note

Insert at the end of the section:

Note. Generally, the making of an application to the Administrative Decisions Tribunal under this section will not affect the operation of the decision concerned (or prevent the taking of action to implement the decision) pending the review of the decision. However, the Tribunal can make orders staying or otherwise affecting the operation of the decision, but only on the application of a party to the proceedings and only if the Tribunal considers it desirable to do so after taking various matters (such as the public interest) into account. See section 60 of the *Administrative Decisions Tribunal Act 1997*.

[23] Section 38 General powers of inspection

Insert after section 38 (1A):

- (1B) An inspector who enters premises under subsection (1) may:
 - (a) require the person apparently in charge of the premises, or of any activity connected with beekeeping that is carried on at the premises, to produce any records or documents under the person's control that relate to beekeeping, and
 - (b) make copies of, or take extracts from, the records or documents so produced (and, for that purpose, remove and retain the records and documents for such period as is reasonably necessary).

[24] Section 38 (10)

Omit "subsection (6)". Insert instead "subsection (1B) (a) or (6)".

[25] Section 39 Power to require name and place of residence and location of beehives

Insert “and to specify the locations of all apiaries in which bees are kept by or on behalf of that person” after “person’s place of residence” in section 39 (1).

[26] Section 44 Evidentiary provisions

Omit “beehive occupied by bees” from section 44 (5).

Insert instead “beehive containing bees”.

[27] Section 46A

Insert before section 47:

46A Exclusion of personal liability

- (1) Anything done or omitted to be done:
 - (a) by the Director-General, or a person acting under the direction of the Director-General, or
 - (b) by an inspector,does not subject the Director-General, person or inspector personally to any action, liability, claim or demand if the thing was done, or omitted to be done, in good faith for the purpose of executing this Act.
- (2) If subsection (1) prevents liability attaching to the Director-General, a person acting under the direction of the Director-General or an inspector, the liability attaches instead to the State.

[28] Section 50 Regulations

Omit “branding of beehives by beekeepers” from section 50 (2) (f).

Insert instead “display of registration numbers on beehives”.

[29] Schedule 5 Savings and transitional provisions

Omit clause 6 (1). Insert instead:

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act
Apiaries Amendment Act 2006

[30] Schedule 5, clause 6 (2)

Omit “this Act”. Insert instead “the Act concerned”.

[31] Schedule 5, clauses 10 and 11

Insert after clause 9:

10 Registrar of beekeepers

- (1) Anything done by the registrar of beekeepers under or for the purposes of this Act is, to the extent that the thing done had effect immediately before the repeal of section 4 by the *Apiaries Amendment Act 2006*, taken to have been done by the Director-General.
- (2) Any application for registration made to the registrar under section 7 and not finally determined before the amendment of that section by the *Apiaries Amendment Act 2006* is taken to have been made to the Director-General.

11 Register of beekeepers

The register of beekeepers kept under section 13 immediately before the amendment of that section by the *Apiaries Amendment Act 2006* is taken to be the register required to be kept under that section as so amended.

Schedule 2 Amendment of Apiaries Regulation 2005

(Section 4)

[1] Clause 3 Definitions

Omit the definition of *queen candy* from clause 3 (1).

[2] Clauses 4 (Queen candy) and 12 (Prescribed officers)

Omit the clauses.

[3] Clause 7 Register of beekeepers

Omit clause 7 (1).

[4] Clause 10 Identification of hives

Omit clause 10 (2).

**Schedule 3 Amendment of Rural Lands Protection
Act 1998**

(Section 5)

**Section 125 When may a responsible board impound bees or beehives
placed or kept on a controlled travelling stock reserve?**

Omit “section 17” from section 125 (4). Insert instead “section 15A, 17, 18A”.