

## Responsible Animal Ownership Horse Agistment Liens

Under the Impounding of Livestock Act 1994.

On 20 October 2004, the *Impounding of Livestock Act 1994* was changed to enable a landholder with a horse agisted on their property to create a lien over the horse to recover costs if agistment fees were not paid for 14 or more days.

### Q. What is agistment?

A. Agistment is when a landholder allows another person's horse to be kept (agisted) on their property for a fee.

### Q. What is a lien?

A. A lien is a legal process that gives the landholder possession over an agisted horse until the money owed on it for agistment is paid.

### Q. Why were these new laws brought in?

A. In the past, many landholders with horses agisted on their property under a verbal arrangement were left in a difficult position when agistment fees were not paid and the horse owner could not be contacted or had abandoned the horse. In such situations, the landholder is left with the responsibility of the horse's welfare, but no legal means of removing the horse.

**The changes to the *Impounding of Livestock Act 1994* allow the landholder to sell or otherwise dispose of a horse that is under a lien if money owed is not received within 28 days of serving a Default Notice, in accordance with the Act.**

### Q. I have a written agistment contract. Can I still use these new laws?

A. When there is a signed written agistment contract with a payment default clause that is different to the provisions of the Impounding of Livestock Act, the Act cannot be used.

It is highly recommended that written agistment contracts *are* used to protect the horse owner and landholder on mutually agreed terms, including dealing with payment defaults, and to prevent disputes arising from misunderstandings. A written agistment contract can also provide detailed information about responsibilities and care of the horse.

**Q. How can I dispute the claims made in the Default Notice?**

**A.** If a person has been served a Default Notice and wants to dispute it, they may wish to contact the lien holder to discuss an arrangement, or they can make application to the Victorian Civil Appeals Tribunal (VCAT).

**Q. Where can I get a copy of a Default Notice from?**

**A.** The requirements for a Default Notice are listed in the *Impounding of Livestock Act 1994* under Section 24F. DPI has created a sample Default Notice to assist landholders, which is available as part of the Agistment Kit in hard copy, on CD or from the DPI website.

**Q. How do I serve the Default Notice on the horse owner?**

**A.** The Default Notice can be served either by sending it by registered post to the horse owner's last known address, or by serving it in person.

The Default Notice is considered served when:

- If served in person, on it being given to the person, or
- If served by registered post, on the day after the day that the notice is posted.

**Q. I don't have the horse owner's address and rarely see them. How can I serve the Default Notice on them?**

**A.** If a Default Notice cannot be served by registered post or in person, a Notice may be placed in the public notices section of a daily newspaper that circulates generally in Victoria.

There are specific requirements for such a Notice that are listed in Section 24F of the *Impounding of Livestock Act 1994*. DPI has created a sample Newspaper Notice to assist landholders, which is available as part of the Agistment Kit in hard copy, on CD or from the DPI website. A Notice published in a newspaper is considered served on the day the newspaper containing the notice is published.

It should be noted that the Notice should only be published in the newspapers if a Default Notice can not be posted, or served in person, to the horse owner.

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