



ANNO TERTIO

GEORGII VI REGIS.

A.D. 1939.

No. 15 of 1939.

An Act to make provision for the payment of compensation to owners of cattle in certain cases, and for other purposes.

[Assented to 22nd November, 1939.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

PART I.

PART. I.

PRELIMINARY.

1. This Act may be cited as the "Cattle Compensation Act, 1939". Short title.

2. This Act shall come into force on a day to be fixed by proclamation. Commencement.

3. The provisions of this Act are arranged as follows:— Arrangement

PART I.—Preliminary.

PART II.—Cattle compensation.

PART III.—Cattle compensation fund and stamp duties.

PART IV.—Miscellaneous.

4. (1) In this Act, unless the context otherwise requires— Interpretation.

"carcass" means the carcass of any cattle :

"cattle" means any bull, cow, ox, steer, heifer or calf :

"chief inspector" means the Chief Inspector of Stock under the Stock and Poultry Diseases Act, 1934 :

"disease" means pleuro-pneumonia contagiosa, tuberculosis, actinomycosis, or Johne's disease ; and

"diseased" has a corresponding interpretation :

"fund" means the Cattle Compensation Fund :

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Cf. Vic. 3651,
1928, s. 3.
Cf. Vic. 3880,
1930, s. 2.

Cattle Compensation Act, 1939.

"inspector" means an inspector of stock under the Stock and Poultry Diseases Act, 1934:

"market value" of cattle means the value of the cattle calculated as upon a sale with delivery at the place where the cattle are when ordered to be destroyed and as if the cattle were free from disease:

"Minister" means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor:

"owner" includes the authorized agent of the owner.

(2) If any cattle are comprised in any stock mortgage or bill of sale, the mortgagor or grantor under the stock mortgage or bill of sale shall, until the cattle are taken into possession or sold by the mortgagee or grantee under the stock mortgage or bill of sale, be deemed to be the owner of the cattle for the purposes of this Act.

PART II.

PART II.

CATTLE COMPENSATION.

Compensation payable to owners of cattle.
Cf. Vlc., 3651, 1928, s. 4.

5. (1) Compensation shall be payable under this Act in the cases and to the extent and subject to the conditions provided in this Act—

- (a) to the owner of any cattle destroyed by or by order of an inspector pursuant to any Act or any regulation or proclamation under any Act, because the cattle are suffering from or suspected of suffering from disease:
- (b) to the owner of any carcass or portion of a carcass, which is pursuant to any Act or any regulation or proclamation under any Act, at any abattoir or slaughter-house, condemned as unfit for human consumption, because of disease, by an inspector or any other person authorized by any such Act, regulation, or proclamation:
- (c) to the owner of any cattle destroyed with the consent of the chief inspector, because the cattle are suffering from or suspected of suffering from disease.

(2) If any cattle are destroyed by order of an inspector as mentioned in paragraph (a) of subsection (1) or with the consent of the chief inspector as mentioned in paragraph (c) of subsection (1), the inspector or chief inspector, as the case may be, may by notice in writing given to the owner of the cattle require the cattle to be destroyed at some abattoirs designated in the notice. If the cattle are destroyed at any place other than the abattoirs so designated, the residual value of the cattle shall, for the purposes of this Act, be deemed to be the

residual value which would have been realized if the cattle had been destroyed at the abattoirs so designated.

6. (1) Subject to this Act, the amount of compensation payable pursuant to this Act in respect of cattle ordered to be destroyed because the cattle are suffering from or suspected of suffering from disease, shall be—

Amount of compensation.
Vic. 3651,
1928, s. 5.
Vic. 3880, 1930,
s. 4.

- (a) if after destruction the cattle are found to be free from disease—the market value (subject to such deductions as are hereinafter in this Act specified) of the cattle; and
- (b) if after destruction, the cattle are found to be diseased—three-quarters of the market value (subject to such deductions as are hereinafter in this Act specified) of the cattle:

Provided that in no case shall the market value of any one head of cattle for the purposes of this Act be deemed to be more than twenty pounds.

(2) Subject to this Act, the amount of compensation payable pursuant to this Act in respect of any diseased carcass or portion of a diseased carcass condemned as unfit for human consumption because of disease shall be in accordance with the prescribed scale.

7. (1) The value of any cattle so destroyed, or any carcass or portion thereof so condemned, shall be determined by agreement between the owner thereof and the inspector or other person under whose authority the cattle were destroyed, or the carcass or portion thereof was condemned, as the case may be. In default of such agreement the value shall be determined by some competent and impartial person nominated for the purpose by the Minister, and the determination of that person shall be final and conclusive.

Determination of value of cattle, etc., destroyed as diseased.
Vic., 3651,
1928, s. 6.

(2) The residual value of any cattle so destroyed or of any carcass or portion thereof so condemned shall be determined in the like manner.

(3) The amount of any such residual value shall in every case be deducted from the amount payable as compensation under this Act.

8. (1) No compensation under this Act shall be payable unless the owner of the cattle so destroyed, or of the carcass or portion thereof so condemned, makes application for compensation in the manner and containing the particulars prescribed and verified as prescribed.

Application for compensation.
Cf. Vic., 3651,
1928, s. 7.
Vic. 4215,
1934, s. 3.

(2) The owner shall forward with the application a certificate (containing the prescribed particulars) to be furnished by the inspector who destroyed or ordered the destruction of the

cattle, or the inspector or other person who condemned the carcass or any portion thereof.

(3) No compensation under this Act shall be payable unless the application for compensation is made by the owner within one month after the destruction of the cattle, or the condemnation of the carcass or portion thereof.

(4) No compensation under this Act shall be payable—

(a) if the head only of any carcass is condemned as unfit for human consumption because of disease; or

(b) where the owner of any cattle visibly affected with disease has failed to give notice pursuant to section 19 of the Stock and Poultry Diseases Act, 1934; or

(c) unless the chief inspector is satisfied—

(i.) that all cattle stamp duty (if any) payable under this Act by the owner claiming compensation in respect of all cattle of the said owner has been duly paid in accordance with the provisions of section 12; and

(ii.) that the owner claiming compensation has complied with this Act and the regulations with respect to applications and claims for compensation; or

(d) in respect of any cattle introduced into South Australia, whether by land, air, or sea, which are destroyed because the cattle are suffering from or suspected of suffering from disease, if the cattle are so destroyed within three months after the introduction of the cattle, unless the chief inspector is satisfied that the cattle became so diseased after being introduced, or unless the cattle are found to be free from disease.

If disease is in localized form.

Vic., 3651, 1928, s. 8.

9. Notwithstanding anything in any Act, when cattle are affected only with a localized form of disease, an inspector, instead of forthwith destroying the cattle, or ordering the same to be destroyed in accordance with the requirements of any Act or the regulations thereunder, may, in his discretion, require the owner to retain the cattle under such conditions as are prescribed.

Trafficking in diseased cattle or carcasses with a view to compensation. Vic., 3651, 1928, s. 9.

10. Any person—

(a) who buys or sells or who attempts to buy or sell any cattle knowing or having reasonable cause to suspect the cattle to be diseased, and with the intention (in the opinion of the court before which he is charged), of making a claim or enabling any other person to make a claim for compensation therefor or in respect of the carcass or any portion of the carcass thereof; or

- (b) who buys or sells or who attempts to buy or sell any carcass or any portion thereof knowing or having reasonable cause to suspect the carcass or portion thereof to be diseased with the intention (in the opinion of the court before which he is charged) of making a claim or enabling any other person to make a claim for compensation in respect of the carcass or any portion thereof,

shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty-five pounds for every such head of cattle, or, as the case may be, for every such carcass or portion thereof.

PART III.

PART III.

CATTLE COMPENSATION FUND AND STAMP DUTIES.

11. (1) There shall be established and kept in the Treasury an account to be called the "Cattle Compensation Fund".

Establishment
of Cattle
Compensation
Fund.

(2) To the credit of the fund there shall be paid—

Cf. Vic.,
3651, 1928,
s. 10.

(a) all sums of money received by or for the Commissioner of Stamps in respect of cattle stamp duty on statements under this Act; and

(b) all penalties recovered under this Act.

(3) The fund shall, subject to this Act, be applied to the payment pursuant to this Act of claims for compensation.

(4) If the Treasurer is of opinion that the moneys in the fund are for the time being insufficient for the purposes of this Act, the Treasurer may, from time to time and without any further appropriation than this section, advance moneys out of the general revenue to be paid into the fund. Every such advance, together with interest thereon at the rate of five per centum per annum, shall be subsequently repaid from the fund to the Treasurer and shall when repaid be paid into the general revenue.

12. (1) Every owner of cattle or the agent of any such owner shall upon the sale thereof, whether payment of the purchase-money is or is not made in full at the time of the sale or is to be made by instalments or is otherwise deferred—

Statements to
be made out
on sale of
cattle and
stamps
affixed.

Vic., 3651,
1928, s. 12.
Vic., 3880,
1930, s. 5.

(a) write out or cause to be written out a statement setting forth the number of cattle so sold, the amount of the purchase-money in respect of each head of cattle, and the date of the sale thereof;

(b) affix to the said statement cattle duty stamps to the amount of the duty payable under this Act and cancel the stamps; and

Cattle Compensation Act, 1939.

(c) give or by registered letter transmit the said statement to the purchaser within seven days of the sale.

(2) Without affecting his liability to pay the amount of any unpaid duty, every owner or agent who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding fifty pounds.

Duty on sales
of cattle.
Cf. Vic., 3775,
1928, third
schedule, par.
xiii.

13. (1) There shall be payable in respect of every sale of any cattle the stamp duties provided by this section by means of stamps affixed to the statement required under section 12.

(2) For every one pound or part of one pound—

(a) of the amount of the purchase-money in respect of one head of cattle sold singly; or

(b) of the total amount of the purchase-money in respect of any number of cattle sold in one lot,

there shall be payable a stamp duty of one penny: Provided that the stamp duty in respect of the amount of the purchase-money of one head of cattle, whether sold singly or as part of a lot, shall not exceed one shilling and eight pence.

(3) The duty hereby imposed shall be in addition to any other duty required to be paid under the Stamp Duties Act, 1923-1938.

Cattle duty
stamps.
Cf. Vic., 3651,
1928, s. 13.

14. (1) Stamp duties under this Act on the said statements shall be denoted by adhesive stamps (referred to in this Act as "cattle duty stamps") issued by the Commissioner of Stamps.

(2) No statement required to be stamped under this Act shall be deemed or taken to be duly or properly stamped with an adhesive stamp to denote the payment of any duty under this Act unless the words "cattle stamp duty" are printed on and form part of the stamp.

(3) Without prejudice to any other method of recovery, any unpaid duty under this Act may be recovered by the Commissioner of Stamps in any court of competent jurisdiction.

(4) Subject to this Act, the provisions of the Stamp Duties Act, 1923-1938, and any regulations thereunder, shall, with such alterations, modifications, and substitutions as are necessary, extend and apply with respect to cattle duty stamps.

(5) Without affecting the generality of the last preceding subsection, every person who practises or is concerned in any fraudulent act, contrivance, or device not specially provided for by law, with intent to defraud His Majesty of any stamp duty under this Act, shall be guilty of a misdemeanour and liable to imprisonment for any term not exceeding twelve months.

15. (1) If the Minister is satisfied—

Refund of duty
on export of
cattle.

- (a) that any cattle were sold in this State and that all cattle stamp duty in respect of the sale has been paid; and
- (b) that within one month of the sale the cattle were exported to any place outside this State and that the cattle have not subsequently been introduced into this State and that the cattle are not likely to be so introduced,

the Minister may direct that an amount equal to the cattle stamp duty paid in respect of the said sale shall be repaid out of the fund to the person by whom the cattle stamp duty was paid.

(2) No amount shall be payable pursuant to this section unless the applicant makes application in the manner and containing the particulars prescribed and verified as prescribed and unless the application is made within one month after the time the cattle referred to in the application were exported from this State.

PART IV.

PART IV.

MISCELLANEOUS.

16. The Governor may make regulations for or with respect to—

Regulations.
Cf. Vic., 3651,
1928, s. 18.

- (a) the manner of making and dealing with and the verification of applications for compensation, and applications made pursuant to section 15 for repayment of cattle stamp duty;
- (b) prescribing the form of any certificate to be issued by any inspector or other person in respect of the destruction of any diseased cattle or any cattle suspected of suffering from disease, or the condemnation of any diseased carcass or portion of a carcass, and the particulars to be set forth in any such certificate;
- (c) scales of compensation payable in respect of diseased carcasses or portions thereof;
- (d) the retention under this Act of cattle by the owner thereof, when the cattle are affected with a localized form of disease only and the conditions of such retention;
- (e) safeguarding the fund from claims for compensation in respect of cattle or carcasses or portions thereof in cases where the cattle are diseased or suspected of being diseased, when introduced or being introduced into South Australia, whether by land, air, or sea; and generally preventing fraudulent or dishonest claims for compensation;

- (f) all matters and things necessary or convenient to be prescribed with respect to the fund and the administration thereof;
- (g) forms for the purposes of this Act and the regulations;
- (h) prescribing penalties (not exceeding twenty pounds in any case) for any contravention of or failure to comply with the regulations; and
- (i) generally, all matters and things which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to or carrying out this Act, and guarding against evasions and violations thereof.

Costs of
administration
of Act.

17. The costs of the administration of this Act shall be paid out of the fund.

Penalty on
persons making
charges, etc.,
for insurance
purposes on
sale of cattle.
Ct. Vic., 3784,
1928, s. 20.

18. If on the sale of any cattle (whether sold singly or as part of a lot) to any person, that person or his agent—

- (a) makes any charge to the vendor; or
- (b) deducts any amount from the purchase-money payable in respect of the sale,

by way of insurance or indemnity against or contribution in respect of losses incurred by reason of the death of the cattle before it reaches the premises of the purchaser or by reason of any disease in the cattle (whether the disease is of any of the kinds mentioned in section 4 or otherwise) or injury to the cattle, the said person or agent shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds.

Inconsistent
conditions in
contracts to be
inoperative.
Ct. Vic., 3784,
1928, s. 21.

19. Any condition, express or implied, in any contract or agreement, providing for making any charge or deducting any amount which would, if made or deducted after the commencement of this Act, be an offence hereunder—

- (a) shall, if made after the said commencement, be void and of no effect; or
- (b) shall, if made before the said commencement, cease to have any further force, operation, or effect as on, from, and after the said commencement.

Summary
proceedings.

20. All proceedings for offences against this Act (not being misdemeanours) shall be disposed of summarily.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

C. M. BARCLAY-HARVEY, Governor.