

## CATTLE COMPENSATION ACT.

### Act No. 26, 1951.

**George VI.** An Act to provide for the establishment of a  
**No. 26, 1951.** Cattle Compensation Fund and for the payment therefrom of compensation to owners of cattle and carcasses of cattle destroyed as suffering from disease; and for purposes connected therewith. [Assented to, 29th October, 1951.]

**BE** it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

#### PART I.

##### PRELIMINARY.

Short title and commencement.

**1.** (1) This Act may be cited as the "Cattle Compensation Act, 1951".

(2) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

Division into Parts.

**2.** This Act is divided into Parts, as follows:—

PART I.—PRELIMINARY.

PART II.—CATTLE COMPENSATION.

PART III.—CATTLE COMPENSATION FUND.

PART IV.—MISCELLANEOUS.

Definitions.  
 cf. Act  
 No. 36, 1928,  
 s. 3.

**3.** In this Act unless the context or subject matter otherwise indicates or requires—

"Abattoir" includes—

- (a) a public abattoir as defined by the Meat Industry Act, 1915-1950, and any place at which the slaughtering of cattle has

has been consented to under section nineteen of that Act or which is licensed or deemed to be licensed under section 21A of that Act; No. 26, 1951.

- (b) any premises registered as a slaughterhouse under the provisions of the Cattle Slaughtering and Diseased Animals and Meat Act, 1902-1947;
- (c) the abattoir maintained, controlled and managed by the Council of the City of Greater Newcastle under the Greater Newcastle Act, 1937, as amended by subsequent Acts, and any abattoir provided, controlled and managed by a council under the Local Government Act, 1919, as amended by subsequent Acts;
- (d) any slaughterhouse or place declared by the regulations to be an abattoir for the purposes of this Act.

“Carcass” means carcass of any cattle.

“Cattle” means any bull, cow, ox, steer, heifer or calf.

“Cattle Compensation Taxation Act, 1951” includes any Act subsequent to the Cattle Compensation Taxation Act, 1951, which imposes a duty in lieu of the duty imposed by that Act.

“Chief of the Division of Animal Industry” means the Chief of the Division of Animal Industry of the Department of Agriculture.

“Disease” means tuberculosis, contagious bovine pleuro-pneumonia, Johne’s disease, actinomycosis, cancer and tick fever, and any other disease in respect of which the provisions of this Act are applied in pursuance of section four of this Act.

“Fund” means the Cattle Compensation Fund established under this Act.

“Market value” of cattle means the value of such cattle calculated as upon a sale with delivery at the

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the place where the cattle are when ordered to be destroyed and as if the cattle were free from disease.

“Owner” includes the authorised agent of the owner.

“Prescribed” means prescribed by this Act or the regulations.

“Regulations” means regulations made under this Act.

Diseases in respect of which Act applies.  
cf. Act No. 36, 1928, s. 4.

4. The Governor may by proclamation published in the Gazette declare that—

- (a) any disease of cattle;
- (b) any condition of ill-health or departure from the normal health of cattle; or
- (c) the infestation of cattle with any parasite, external or internal, and whether at an active or cystic stage of its life cycle,

shall be a disease in respect of which the provisions of this Act shall apply and any such proclamation may be varied or revoked by a like proclamation.

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**PART II.**
**CATTLE COMPENSATION.**

Compensation payable to certain owners.  
*Ibid.* s. 5.

5. (1) Subject to this Act compensation shall be payable—

- (a) to the owner of any cattle destroyed, pursuant to an order made or given under the authority of any Act or of any regulations under any Act, because such cattle are suffering from or are suspected to be suffering from disease; or
- (b) to the owner of any carcass or portion of a carcass condemned at any abattoir under the authority of any Act as unfit for human consumption because of disease; or
- (c) to the owner of any cattle destroyed by the order of an approved person because such cattle are suffering from or are suspected to be suffering from disease.

(2)

(2) For the purposes of paragraph (c) of subsection one of this section an approved person means a person approved by the Minister for the purposes of this Act either generally or in a particular case and who is an inspector under the Stock Diseases Act, 1923-1934, or a registered veterinary surgeon or a veterinary surgeon employed under any Act of this State or the Commonwealth. No. 26, 1951.

**6.** (1) Subject to this Act, the amount of compensation payable in respect of any cattle destroyed because such cattle are suffering from or are suspected to be suffering from disease shall be— Amount of compensation.  
Act No. 36,  
1928, s. 6.

- (a) if after destruction the cattle are found to be free from disease, the market value (subject to the prescribed deductions) of the cattle;
- (b) if after destruction the cattle are found to be diseased, such portion of the market value (subject to the prescribed deductions) as may be prescribed by the regulations.

In no case shall the market value of any one head of cattle be deemed for the purposes of this Act or the regulations to exceed thirty-six 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 as prescribed by the regulations.

The regulations may prescribe that such amount may, subject to the prescribed deductions, be assessed according to the market value of the carcass or portion.

**7.** (1) The market value of any cattle so destroyed, or of any carcass or portion of a carcass so condemned, shall be determined by agreement between the owner thereof and the person by whose order or under whose authority such cattle were destroyed or such carcass or portion thereof was condemned, as the case may be. Determina-  
tion of value  
of cattle, etc.  
destroyed.  
*Ibid.* s. 7.

(2)

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(2) 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 such person shall be final and conclusive.

(3) The residual value of any cattle so destroyed, or of any carcass or portion of a carcass so condemned, shall be determined in a like manner.

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

Application  
for com-  
pensation,  
etc.

Act No. 36,  
1928, s. 8,  
and Vict.  
Act,  
No. 3651,  
s. 7.

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

(2) The owner shall forward with the application a certificate (containing the prescribed particulars) to be furnished by the person by whose order or under whose authority the cattle were destroyed or the person by whom the carcass or portion thereof was condemned.

Where cattle are destroyed upon the order of the Minister the certificate may be furnished by the prescribed person.

(3) No compensation shall be payable unless the application for compensation verified as prescribed has been made within thirty days after the destruction of the cattle or the condemnation of the carcass or portion thereof: Provided that in any case where the application is made after the expiration of that period the Minister may authorise the payment of the whole or portion of the compensation if he is satisfied that reasonable grounds existed for the delay in making the application.

(4) No compensation shall be payable—

- (a) if the head or part of the head only of a carcass is condemned;
- (b) in respect of cattle destroyed because they are suffering from disease where in the opinion of the Chief of the Division of Animal Industry the owner thereof has not, at a time when he ought

ought reasonably to have known of the existence of such disease, given notice thereof to an inspector appointed under the Stock Diseases Act, 1923-1934; No. 26, 1951.

- (c) in respect of any cattle destroyed because they are suffering or are suspected to be suffering from any disease or in respect of the carcass of any cattle or any portion thereof condemned as unfit for human consumption because of any disease where in the opinion of the Chief of the Division of Animal Industry—
  - (i) the owner thereof has purchased such cattle knowing or having reasonable cause to suspect that they were, at the time of such purchase, suffering from such disease;
  - (ii) if such cattle were introduced into New South Wales and at the time of introduction they were known to be or there was reasonable cause to suspect that they were suffering from such disease;
- (d) unless the Chief of the Division of Animal Industry is satisfied—
  - (i) that all stamp duty (if any) payable under the Cattle Compensation Taxation Act, 1951, in respect of the sale to the owner claiming compensation of all cattle purchased by him has been duly paid in accordance with the provisions of subsection one of section thirteen of this Act; and
  - (ii) that the owner claiming compensation has complied with this Act and the regulations with respect to applications and claims for compensation;
- (e) in respect of cattle introduced into New South Wales which are destroyed because such cattle are suffering from or are suspected to be suffering from contagious bovine pleuro-pneumonia if such cattle are so destroyed within six months after the introduction of such cattle unless the Chief

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Chief of the Division of Animal Industry is satisfied that such cattle became so diseased after being introduced or unless such cattle are found to be free from the said disease.

(5) No compensation or only such part of the compensation otherwise payable as the Chief of the Division of Animal Industry thinks reasonable shall be payable under this Act to any owner if within the period of two years preceding the date of his application for compensation he has been convicted—

- (a) of an offence against this Act or the regulations;
- (b) of an offence in connection with cattle against the Stock Diseases Act, 1923-1934, or the regulations made thereunder; or
- (c) of an offence against any provision relating to diseases in cattle or cattle products or the carcasses of cattle or portions of a carcass contained in any Act or in any regulation made under any Act.

Compensation how payable.

**9.** (1) Save as provided in subsection two of this section compensation payable under this Act shall be paid out of the Fund.

(2) Twenty per centum of the compensation becoming payable under this Act in respect of tuberculosis during the period of three years after the commencement of this Act shall be paid by the Colonial Treasurer out of moneys to be provided by Parliament for the purpose.

Compensation money may be applied in payment of debt to Government.  
Act No. 36, 1928, s. 9.

**10.** Where any person to whom compensation is payable in accordance with the provisions of this Act is indebted to the Government of the State in respect of any advance of money or goods or other assistance rendered to him the compensation may at the discretion of the Minister be applied in the first place in payment of the debt and the balance, if any, shall be paid to such person.

Persons trafficking in diseased cattle or carcasses with a view to compensation.

*Ibid.* s. 11.

**11.** Any person—

- (a) who buys or sells or attempts to buy or sell any cattle knowing or having reasonable cause to suspect such cattle to be diseased and with the

intention

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 attempts to buy or sell any carcass knowing or having reasonable cause to suspect such carcass 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 in respect of such carcass or any portion thereof;

shall be liable upon summary conviction to a penalty not exceeding one hundred pounds for every head of such cattle or, as the case may be, for every such lastmentioned carcass.

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### PART III.

#### CATTLE COMPENSATION FUND.

**12.** (1) There shall be established and kept in the Treasury an account in Special Deposits Account to be called the Cattle Compensation Fund.

Establishment of Fund.  
Act No. 36,  
1928, s. 12.

- (2) There shall be paid to the credit of the Fund—
- (a) all sums of money collected by or for the Commissioner of Stamp Duties in respect of stamp duty under the Cattle Compensation Taxation Act, 1951;
- (b) all penalties recovered under this Act or under the Stamp Duties Act, 1920, as amended by subsequent Acts, in connection with stamp duties imposed by the Cattle Compensation Taxation Act, 1951.
- (3) The Fund shall be applied to the payment of—
- (a) claims for compensation in accordance with the provisions of this Act;

(b)



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- (b) the cost of production and distribution of cattle duty stamps; and
- (c) any expenses incurred in obtaining a determination of the value of cattle or of a carcass or portion thereof in accordance with subsection two or three of section seven of this Act.

(4) Any sum at any time required for the payment of compensation under this Act may, so far as the Fund is insufficient for the payment thereof, be advanced by the Colonial Treasurer.

(5) Any sum advanced by the Colonial Treasurer to the Fund in accordance with the provisions of this section shall remain a charge thereon to be recouped by the Fund when moneys at credit of the Fund are available.

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

Vict. Act  
No. 3651,  
s. 12.

**13.** (1) Every owner of cattle 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—

- (a) write or cause to be written out a statement setting forth the number and description (as prescribed) 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 the Cattle Compensation Taxation Act, 1951, and cancel such stamps in the manner prescribed by regulations made under the Stamp Duties Act, 1920, as amended by subsequent Acts;
- (c) give or by registered letter transmit the said statement with the cattle duty stamps so affixed and cancelled to the purchaser within seven days of such sale.

Penalty.

(2) Without affecting his liability to pay the amount of any unpaid duty any owner who contravenes or fails to comply with any of the provisions of this section shall be liable to a penalty of not more than fifty pounds.

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

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Cattle duty stamps issued by Commissioner of Stamp Duties.

(2) No statement required to be stamped under this Act or the Cattle Compensation Taxation Act, 1951, shall be deemed or taken to be duly or properly stamped with an adhesive stamp to denote the payment of any duty in respect of such statement unless the words "cattle stamp duty" are printed on and form part of such stamp.

cf. Act No. 36, 1928, s. 14.

(3) Without prejudice to any other method of recovery, any unpaid duty under the Cattle Compensation Taxation Act, 1951, may be recovered in a court of petty sessions as a civil debt recoverable summarily or in any court of competent jurisdiction.

(4) Subject to this Act the provisions of the Stamp Duties Act, 1920, as amended by subsequent Acts, 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 subsection four of this section any 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 the Cattle Compensation Taxation Act, 1951, shall be guilty of a misdemeanour and liable to imprisonment for a term of not more than twelve months.

**15.** The provisions of sections nine and ten of the Stamp Duties Act, 1920, as amended by subsequent Acts, shall extend and apply to the making of regulations for and with respect to—

Regulations as to statements and stamp duty thereon.

Act No. 36, 1928, s. 15.

- (a) the stamping of statements under this Act and the stamps to be used therefor; and
- (b) all matters and things which with respect to any such statements or the stamp duty thereon or cattle duty stamps are by this Act required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act.

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Production  
of state-  
ments for  
inspection.

**16.** (1) A person shall upon demand made by a person authorised to carry out inspections under section one hundred and thirty-one of the Stamp Duties Act, 1920, as amended by subsequent Acts, produce for inspection by the person so authorised any statement required by section thirteen of this Act to have been given or transmitted to him in respect of the purchase by him of cattle.

(2) It shall be a defence to any prosecution for failure to comply with the provisions of subsection one of this section if the person charged proves that the statement the subject of such charge was not given or transmitted to him and that he made all reasonable efforts to obtain such statement.

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#### PART IV.

##### MISCELLANEOUS.

Penalty in  
cases not  
provided  
for.Act No. 36,  
1928, s. 16.

**17.** Any person who is guilty of any contravention of or failure to comply with any of the provisions of this Act or the regulations for which no penalty or other punishment is expressly provided or who permits any contravention of or failure to comply with any of such provisions shall be liable upon summary conviction to a penalty not exceeding fifty pounds.

Penalty on  
persons  
making  
charges,  
etc., for  
insurance  
purposes on  
sale of  
cattle.*Ibid.* s. 17.

**18.** (1) If on the sale of any cattle to any person any such person or his agent—

(a) makes any charge to the vendor; or

(b) deducts any amount from the purchase money payable in respect of such sale,

by way of insurance or indemnity against or contribution in respect of losses incurred by reason of any disease in the cattle or in other cattle purchased by him, such person or agent shall be guilty of an offence and liable upon summary conviction for every such offence to a penalty not exceeding one hundred pounds.

Conditions  
inconsistent  
herewith in  
contracts to  
be inopera-  
tive.

(2) Any condition expressed or implied in any contract or agreement providing for making any charge

or

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 commencement of this Act be void and of no effect; or
- (b) shall, if made before the commencement of this Act, cease to have any further force, operation or effect upon the date of commencement of this Act.

(3) (a) The provisions of this section shall extend and apply with respect to companies and other bodies of persons as if they were private persons.

Application  
to com-  
panies, etc.

(b) Every company or other body of persons guilty of an offence under this section shall be subject to the same pecuniary penalties as if it were a private person, and if any chairman, member of the governing body, director, manager, secretary or officer of such company or body knowingly authorises or permits the commission of any such offence he shall also be liable therefor.

Liability of  
companies,  
etc.

**19.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and, without limiting the generality of the foregoing power, the Governor may—

Regulations.  
Act No. 36,  
1928, s. 18.

- (a) prescribe the method of making and dealing with and the verification of applications for compensation;
- (b) prescribe the form of any certificate to be issued by any person under whose order cattle are destroyed or by whom a carcass or portion thereof is condemned;
- (c) declare any slaughterhouse or place to be an abattoir for the purposes of this Act;
- (d) prescribe the compensation payable under subsection two of section six of this Act;
- (e) impose a penalty not exceeding fifty pounds for any contravention of or failure to comply with any regulation.

(2)

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- (2) The regulations shall—
- (a) be published in the Gazette;
  - (b) take effect from the date of publication or from a later date specified in the regulations;
  - (c) be laid before both Houses of Parliament within fourteen sitting days after the date of publication thereof if Parliament is then in session and, if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

(3) Any penalty imposed by the regulations may be recovered in a summary manner before a stipendiary magistrate or any two or more justices.

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