

CATTLE COMPENSATION (AMENDMENT) ACT.

Act No. 28, 1956.

An Act to alter the basis of contributions to the Cattle Compensation Fund established under the Cattle Compensation Act, 1951; for this and other purposes to amend that Act and the Pastures Protection Act, 1934-1955; to validate certain matters; and for purposes connected therewith. [Assented to, 9th November, 1956.] Elizabeth II,
No. 28, 1956.

BE it enacted by the Queen'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:—

1. (1) This Act may be cited as the "Cattle Compensation (Amendment) Act, 1956." Short title
and
citation.

(2) The Cattle Compensation Act, 1951, as amended by this Act, may be cited as the Cattle Compensation Act, 1951-1956.

(3) The Pastures Protection Act, 1934, as amended by subsequent Acts and by this Act, may be cited as the Pastures Protection Act, 1934-1956.

Cattle Compensation (Amendment) Act.

No. 23, 1956.

Amendment
of Act
No. 26, 1951.
Sec. 2.
(Division
into Parts.)

2. The Cattle Compensation Act, 1951, is amended—

(a) by inserting in section two next after the matter relating to Part III the following new matter:—

DIVISION I.—*Establishment of Fund.*

DIVISION II.—*Stamp Duty on Statements of Cattle Sold.*

DIVISION III.—*Levy of Special Rate by Pastures Protection Boards on Ownership of Cattle.*

DIVISION IV.—*Stamp Duty in respect of Cattle delivered for Slaughter.*

Sec. 3.
(Defini-
tions.)

(b) (i) by omitting from section three the definition of “Cattle Compensation Taxation Act, 1951” and by inserting in lieu thereof the following definition:—

“Cattle Compensation Taxation Act, 1956” includes any Act subsequent to the Cattle Compensation Taxation Act, 1956, which imposes a duty in lieu of the duty imposed by that Act.

(ii) by inserting in the same section next after the definition of “Owner” the following new definition:—

“Pastures Protection Act, 1934” means the Pastures Protection Act, 1934, as amended by subsequent Acts.

Sec. 5.
(Compensa-
tion
payable to
certain
owners.)

(c) by inserting at the end of paragraph (c) of subsection one of section five the following word and new paragraph:—

“; or

(d) to the owner of any cattle in respect of which an order, referred to in paragraph (a) or (c) of this subsection, has been made or given, and which die as a result of disease before such order is complied with.”

(d)

- (d) by inserting next after section five the following new section:—

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New sec. 5A.

5A. Any cattle referred to in paragraph (d) of subsection one of section five of this Act shall for the purposes of this Part of this Act (subsection one of section six excepted) be deemed—

Certain cattle deemed to have been destroyed.

- (a) to have been destroyed because they were suffering from or were suspected to be suffering from disease;
 - (b) to have been so destroyed at the time when they died; and
 - (c) to have been so destroyed pursuant to the order or under the authority of the person who made or gave the order for their destruction.
- (e) (i) by omitting from subsection one of section six the words “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.”;
- (ii) by inserting next after the same subsection the following new subsections:—
- (1A) Subject to this Act, the amount of compensation payable in respect of any cattle referred to in paragraph (d) of subsection one of section five of this Act shall be such portion of the market value (subject to the prescribed deductions) as may be prescribed.
 - (1B) 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.
- (f) (i) by inserting next after subparagraph (i) of paragraph (d) of subsection four of section eight the following new subparagraphs:—

Sec. 6.

(Amount of compensation.)

Sec. 8.

(Application for compensation, etc.)

- (ia) that all stamp duty (if any) payable under the Cattle Compensation Taxation Act, 1956, by the person claiming compensation has been paid; and
- (ib)

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- (ib) that any special rate levied in pursuance of section 16b of this Act and payable by the person claiming compensation has been paid; and;
- (ii) by inserting next after the same subsection the following new subsection:—

(4A) Where no compensation in respect of cattle is payable by reason of paragraph (b) of subsection four of this section the Minister may, upon the written request of the owner of such cattle, consider the circumstances relating to the owner's failure to give notice to an inspector appointed under the Stock Diseases Act, 1923-1934, of the disease in such cattle and any other relevant circumstances, and if the Minister is of the opinion that such circumstances so warrant, he may approve of the payment of the whole of the compensation which would but for the said paragraph have been payable or such part thereof as he thinks reasonable.

- (iii) by omitting subsection five of the same section and by inserting in lieu thereof the following subsection:—

(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—

(a) he has been convicted—

- (i) of an offence against this Act or the regulations;
- (ii) of an offence in connection with cattle against the Stock Diseases Act, 1923-1934, or the regulations made thereunder; or

(iii)

(iii) 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; No. 28, 1956.

(b) he has failed within the said period of two years to furnish a return in pursuance of section thirty-nine of the Pastures Protection Act, 1934, or a return in pursuance of section 16c of this Act, within the time prescribed by or under that Act or this Act, as the case may be, or he has furnished within the said period of two years any such return containing incorrect or misleading information.

(g) by inserting in the heading to Part III after the words "Cattle Compensation Fund" the following new sub-heading:— Part III.
(Cattle
Compensa-
tion
Fund.)

DIVISION I.—*Establishment of Fund.*

(h) (i) by inserting at the end of paragraph (a) of subsection two of section twelve the words " , and the Cattle Compensation Taxation Act, 1956"; Sec. 12.
(Estab-
lishment
of Fund.)

(ii) by inserting at the end of paragraph (b) of the same subsection the following words and new paragraph:—

“ , and the Cattle Compensation Taxation Act, 1956; and

(c) all sums of money received by the Minister from pastures protection boards in pursuance of section 16H of this Act.”

(iii)

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- (iii) by inserting at the end of subsection three of the same section the following words:—

To meet the cost of administration of this Act there shall be paid out of the Fund to the credit of the Consolidated Revenue Fund in the year commencing on the first day of July, one thousand nine hundred and fifty-seven and in each succeeding year commencing on the first day of July, an amount equal to five per centum of the total sum paid to the credit of the Fund during the preceding period of twelve months.

New sub-heading to ss. 13-16A incl.

- (i) by inserting immediately before section thirteen the following new sub-heading:—

DIVISION II.—Stamp Duty on Statements of Cattle Sold.

New sec. 16A and Divisions III and IV. Operation of this Division of this Part.

- (j) by inserting next after section sixteen the following new section and Divisions:—

16A. The provisions of this Division of this Part of this Act shall not apply to any sale of cattle made after the thirty-first day of December, one thousand nine hundred and fifty-six.

DIVISION III.—Levy of Special Rate by Pastures Protection Boards on Ownership of Cattle.

Interpretation.

16B. In this Division of this Part of this Act—

“Board” means a pastures protection board for a district constituted or continued by or under the Pastures Protection Act, 1934.

“District” means a pastures protection district constituted or continued by or under the Pastures Protection Act, 1934.

Returns to be made by owners of cattle.

16c. (1) Every person who at midnight on the thirty-first day of December in any year is the owner of cattle within a district such cattle not being cattle in respect of which such person is required to make a return of stock under subsection one of section thirty-nine of the Pastures Protection

Protection Act, 1934, shall in the prescribed manner and within the prescribed time furnish to the board for that district a return in the prescribed form in respect of the cattle within the district owned by him at midnight aforesaid. No. 28, 1956.

(2) Any person who fails to comply with the provisions of subsection one of this section or who furnishes any return containing any incorrect or misleading information, shall be liable on summary conviction to a penalty not exceeding fifty pounds.

Proceedings in respect of any offence against this subsection may, notwithstanding any limit of time prescribed by any Act for instituting proceedings, be commenced at any time within a period of two years after the commission of the offence.

(3) Any return purporting to be furnished or signed by or on behalf of any person or persons shall be deemed to have been duly furnished by him or them until the contrary is proved.

16b. (1) Every board shall in the year one thousand nine hundred and fifty-seven and in each succeeding year make and levy in respect of such year in accordance with the following provisions a special rate in respect of cattle in the amount prescribed:— Levy of special rate by boards.

(a) (i) where a return under subsection one of section thirty-nine of the Pastures Protection Act, 1934, has in such year been furnished within the time prescribed by or under that Act to the board by a person required by that subsection to furnish the return the special rate shall be levied upon that person in respect of the number of cattle shown in such return as being owned by him;

(ii)

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- (ii) where such a return has not, within the time prescribed by or under the said Act, been furnished by any such person the special rate shall be levied upon that person in respect of the average number of cattle which the board determines could have been depastured on the land in respect of which the return was required to be made during the five years immediately preceding the year in respect of which the special rate is to be levied;
- (b) (i) where a return under subsection one of section 16c of this Act has in such year been furnished within the time prescribed under this Act to the board by any person required by that subsection to furnish the return, the special rate shall be levied upon that person in respect of the number of cattle shown in such return;
- (ii) where such a return has not, within the time prescribed under this Act, been furnished by any such person, the special rate shall be levied on that person in respect of the number of cattle owned by such person and within the district of the board at midnight on the thirty-first day of December in the year next preceding the year in which the special rate is to be levied, such number being determined by the board from any information in its possession.

(2) No rate shall be levied under this section on any person in any year where the number of cattle in respect of which such rate would, but for this subsection, be levied on that person in that year is less than ten.

(3)

(3) The provisions of section thirty-three of the Pastures Protection Act, 1934, shall apply to and in respect of any determination of a board made under subparagraph (ii) of paragraph (a) of subsection one of this section as if it were a determination as to the carrying capacity of land other than land used for agricultural purposes made in pursuance of such Act. No. 28, 1956.

16E. Subject to section 16D of this Act, the provisions of Part III of the Pastures Protection Act, 1934 (other than subsections two, three and four of section twenty-seven and subsections three and four of section thirty) and of Part X of that Act shall mutatis mutandis apply to the making, calculation, notification, collection, payment and recovery of any rate levied under paragraph (a) of subsection one of section 16D of this Act. Levy of rates on occupiers of land.

16F. (1) In this section "rate" means special rate levied under paragraph (b) of subsection one of section 16D of this Act. Levy of rates on owners of cattle who are not occupiers of land.

(2) Every rate shall be levied by the service of a notice of assessment. A notice of assessment shall be served within the prescribed time except where the return required by section 16C of this Act has not been furnished within the prescribed time in which case the notice may, notwithstanding anything contained in subsection one of section 16D of this Act, be served at any time.

(3) If for any reason a notice of assessment is not served within the time prescribed under this Act or if any irregularity in making an assessment or in serving a notice of assessment or of the alteration of an assessment affects or may be considered to affect the validity of any rate the Minister may extend the time for the service of notices of assessment and may authorise the doing by the board of such acts as may be necessary to cure the irregularity and to validate the rate. (4)

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(4) Every rate shall be due and payable to and recoverable by the board by which it was levied after the expiration of thirty-one days after service of the notice of assessment.

(5) A rate in respect of cattle owned jointly by two or more persons may be levied upon any one or more of such persons.

All such persons shall be jointly and severally liable for the payment of the rate to the board which has levied the rate but as between themselves each shall only be liable for such part of the rate as is proportionate to his interest in the cattle.

If any of such persons pays to the board more than his proportionate part he may recover the excess by way of contribution from the others.

(6) Where any cattle have not been included in the assessment of any rate a board may at any time cause the assessment to be altered so as to include such cattle, and the additional rate payable in consequence of such alteration shall be due and payable to and recoverable by the board after the expiration of thirty-one days after service of a notice of the alteration of the assessment.

(7) A notice of assessment and a notice of the alteration of an assessment may be served in any one of the ways specified in subsection one of section one hundred and sixty-six of the Pastures Protection Act, 1934.

(8) (a) Every rate shall be entered in an assessment book which shall be kept in the prescribed form and manner.

(b) The board may, in the prescribed manner, make or cause to be made such amendments and may supply or cause to be supplied such omissions in the entries in the assessment book as may be necessary.

(c)

*cf. Act
No. 22,
1910 (Com-
monwealth),
s. 21.*

(c) In any proceedings for the recovery of a rate— No. 28, 1956.

- (i) an entry in the assessment book, being one of a series prescribed to be made, shall be evidence of the matters therein recorded; and
- (ii) a copy of an entry in an assessment book, being one of a series prescribed to be made, shall be evidence of the entry and of the matters therein recorded.

(9) In any proceedings for the recovery of a rate, objection to the assessment or the validity of the rate shall not be allowed nor avail to prevent the recovery of the rate. cf. Act No 35, 1934, s. 36.

Any person on whom a rate has been levied may, subject to subsection two of section 16D of this Act and subsection three of this section, object to the assessment or validity of the rate in such court and in such manner and upon such conditions and subject to such fees as may be prescribed.

(10) (a) A board may, with the approval of the Minister but not otherwise, remit or refund the whole or any part of a rate paid or payable under this section of this Act.

(b) The Minister may authorise a board to write off the whole or any part of any rate if he is satisfied that such rate or part is irrecoverable.

16c. The secretary of a board or any other officer of a board in that behalf authorised by the board or any person in that behalf authorised by the Minister shall at all reasonable times have full and free access to all lands, buildings, places, books, documents and other papers for the purpose of ascertaining the ownership of any cattle for the purposes of this Division of this Part of this Act and for such purposes may make extracts Access to lands, buildings, etc.

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extracts from or copies of any such books, documents or papers. No person shall obstruct, hinder or interfere with any person acting in pursuance of this section.

Moneys to
be paid
by boards
to Minister.

16H. All amounts received by a board in respect of the rates levied under this Division of this Part of this Act shall be paid by the board to the Minister for payment to the credit of the Fund.

DIVISION IV.—Stamp Duty in respect of Cattle delivered for Slaughter.

Record to
be kept at
abattoir.
cf. Act
No. 36,
1928,
s. 13.

16I. (1) On and after the first day of January, one thousand nine hundred and fifty-seven, it shall be the duty of the person in charge of every abattoir to make and keep, for a period of two years after it is made, a record in the prescribed form and to make therein the prescribed entries in respect of any cattle delivered on and after such day to such abattoir for slaughter. Such entries shall be made within fourteen days after the delivery of the cattle.

(2) Any person on whose behalf any cattle are, on or after the first day of January, one thousand nine hundred and fifty-seven, delivered to an abattoir for slaughter shall within fourteen days after such cattle are so delivered affix to such record cattle duty stamps as prescribed by the Cattle Compensation Taxation Act, 1956, in respect of the cattle so delivered and shall cancel such stamps in the manner prescribed by the regulations made under the Stamp Duties Act, 1920, as amended by subsequent Acts.

(3) An inspector of stock appointed under the Pastures Protection Act, 1934, a person appointed under that Act to exercise the powers of any such inspector, a veterinary officer of the Department of Agriculture or any person

person authorised by the Minister to exercise the powers conferred by this subsection may at all reasonable times require the person in charge of an abattoir to produce to him for inspection any record made or kept in pursuance of subsection one of this section and may take copies thereof or of any entries therein. No. 28, 1956.

No person shall obstruct, hinder or interfere with any person acting in pursuance of the powers and authorities conferred on him by this subsection and the person in charge of an abattoir shall not when so required under this subsection refuse or neglect to produce a record made or kept in pursuance of subsection one of this section.

(4) Without affecting his liability (if any) to pay the amount of any unpaid duty, any person who contravenes any provision of this section shall be liable upon summary conviction to a penalty not exceeding fifty pounds.

Proceedings in respect of any contravention of this subsection may, notwithstanding any limit of time prescribed by any Act for instituting proceedings, be commenced at any time within a period of two years after such contravention.

(5) The provisions of sections fourteen and fifteen of this Act shall apply to and in respect of the record required to be made and kept under subsection one of this section.

For the purposes of such application—

- (a) any reference in those sections to a statement shall be read and construed as a reference to a record made or kept under subsection one of this section; and
- (b) any reference to the Cattle Compensation Taxation Act, 1951, shall be read and construed as a reference to the Cattle Compensation Taxation Act, 1956.

Cattle Compensation (Amendment) Act.

No. 28, 1956. **3.** The Pastures Protection Act, 1934, as amended by subsequent Acts, is amended—

Amendment
of Act
No. 35,
1934.
Sec. 39.
(Returns
of land
and
stock.)

(a) by omitting from subsection two of section thirty-nine the word “twenty” and by inserting in lieu thereof the word “fifty”;

(b) by inserting at the end of the same subsection the following new paragraph:—

Proceedings in respect of any offence against this subsection may, notwithstanding any limit of time prescribed by any Act for instituting proceedings, be commenced at any time within a period of two years after the commission of the offence.

Valida-
tions.

4. (1) Any payment of compensation made before the commencement of this Act out of the Cattle Compensation Fund established under the Cattle Compensation Act, 1951, in respect of cattle which died before an order made or given under paragraph (a) or (c) of subsection one of section five of that Act in respect of such cattle was complied with shall be as valid and as effectual as if the amendments made by paragraphs (c), (d) and (e) of section two of this Act were in force at the time when such order was made or given.

(2) Any payments made before the commencement of this Act out of the Cattle Compensation Fund established under the Cattle Compensation Act, 1951, to the Consolidated Revenue Fund for the purpose of meeting the cost of administration of that Act are hereby validated.