



New South Wales

Agricultural Livestock (Disease Control Funding) Act 1998 No 139

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New South Wales

Agricultural Livestock (Disease Control Funding) Act 1998 No 139

Act No 139, 1998

An Act to assist agricultural industries to provide and fund services to control diseases in livestock; and for other purposes. [Assented to 8 December 1998]

Part 1 Preliminary

1 Name of Act

This Act is the *Agricultural Livestock (Disease Control Funding) Act 1998*.

2 Commencement

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

3 Definitions

In this Act:

carrying capacity of land has the same meaning it has in the *Rural Lands Protection Act 1989*.

control a disease includes prevent or eradicate the disease.

designated disease, designated disease control service, designated livestock producers—see section 6.

Director-General means the Director-General of the Department of Agriculture.

disease means any disease within the meaning of the *Stock Diseases Act 1923* or any exotic disease within the meaning of the *Exotic Diseases of Animals Act 1991*.

disease control service—see section 5.

exercise a function includes perform a duty.

function includes a *power*, authority or duty.

industry advisory committee means a committee established under section 8.

industry contribution fund means a fund established under Part 3.

industry fund means an industry contribution fund or an industry levy fund.

industry levy means a levy imposed under Part 4.

industry levy fund means a fund established under Part 4.

levy period— see section 15.

livestock means any stock within the meaning of the *Stock Diseases Act 1923*.

livestock producer means a person:

- (a) who raises livestock on the person's own behalf, or
- (b) on whose behalf livestock is raised, or
- (c) who is a party to a share-farming or partnership agreement under which livestock is raised.

occupier has the same meaning it has in the *Rural Lands Protection Act 1989*.

ratable land has the same meaning it has in the *Rural Lands Protection Act 1989*.

4 Notes

Notes included in this Act are explanatory notes and do not form part of this Act.

Part 2 Disease control services

5 Nature of disease control service

- (1) For the purposes of this Act, a *disease control service* is an agricultural service for livestock producers comprising a program, or series of programs, for the control of a particular disease in livestock.
- (2) Any such program extends (without limitation) to the following:
 - (a) measures to detect the presence of the disease in livestock,
 - (b) measures to control the disease,
 - (c) research into the disease,
 - (d) measures to assist livestock producers adversely affected by the disease.
- (3) Any such program may be limited to this State or may be a part of a program in other parts of Australia or in other countries.

6 Approval of funding under this Act for disease control service

- (1) The Minister may approve the funding under this Act of a disease control service with respect to a particular disease.
- (2) The Minister may give such an approval if the Minister has consulted representatives of producers of livestock liable to be infected by the disease and is satisfied that:
 - (a) the disease is a significant risk to the livelihood of those livestock producers, and
 - (b) the disease control service is being provided or supported by the relevant sector of the agricultural industry, and
 - (c) the funding of the disease control service under this Act is appropriate in order to assist that sector of the agricultural industry to provide the service.
- (3) Any such approval is to be given by an order of the Minister published in the Gazette.

- (4) While any such approval remains in force:
- (a) the service is a *designated disease control service* for the purposes of this Act, and
 - (b) the disease is a *designated disease* for the purposes of this Act, and
 - (c) the producers of livestock liable to be infected by the disease are *designated livestock producers* for the purposes of this Act.
- (5) A statement in an order giving any such approval that the Minister has complied with the requirements of subsection (2) is conclusive evidence of compliance with those requirements.

7 Standing Disease Control Advisory Committee

- (1) The Minister is to establish a Standing Disease Control Advisory Committee.
- (2) The Committee is to consist of not fewer than 5 members, including:
- (a) a person appointed by the Minister, who is to be the Chairperson of the Committee, and
 - (b) at least 2 members appointed by the Minister from a panel of at least 5 livestock producers nominated by the NSW Farmers' Association or another affiliated organisation chosen by the Minister that represents livestock producers, and
 - (c) at least one member appointed by the Minister from a panel of at least 3 persons nominated by the Rural Lands Protection Board Association, and
 - (d) a nominee of the Director-General.

A majority of the members of the Committee is to comprise members who are livestock producers.

- (3) The functions of the Committee are as follows:
- (a) to advise the Minister on the establishment of disease control services that are to be funded under this Act,
 - (b) to advise the Minister on the disposal of any surplus amount in an industry fund after the provision of the relevant disease control service for which the fund was established.

- (4) Any such surplus amount may be disposed of by the Minister for the benefit of the livestock industry concerned having regard to the advice of the Committee.

8 Industry advisory committees

- (1) The Minister is to establish an industry advisory committee for each designated disease control service.
- (2) An industry advisory committee is to be called the “[*name of designated disease*] industry advisory committee”.
- (3) An industry advisory committee is to consist of
- (a) a person appointed by the Minister, who is to be the Chairperson of the committee, and
 - (b) at least one member appointed by the Minister from a panel of at least 3 designated livestock producers nominated by the NSW Farmers’ Association or another affiliated organisation chosen by the Minister that represents producers in the relevant livestock industry, and
 - (c) at least one member appointed by the Minister from a panel of at least 3 persons nominated by the Rural Lands Protection Board Association, and
 - (d) such other members (being not fewer than two) as the Minister determines after consultation with representatives of the designated livestock producers concerned.

A majority of the members of a committee is to comprise members who are designated livestock producers.

- (4) The functions of an industry advisory committee are as follows:
- (a) to advise the Minister on the funding of the designated disease control service, including:
 - (i) the programs to be funded, and
 - (ii) the policies and priorities for expenditure from the industry funds established in respect of the designated disease control service,
 - (iii) any industry levy that may be imposed under this Act,
 - (b) such other functions with respect to the designated disease control service as the Minister directs.
- (5) Schedule 1 has effect with respect to the constitution and procedure of an industry advisory committee.

Part 3 Voluntary industry funding

9 Establishment of industry contribution fund for designated disease control services

- (1) The Director-General is to establish an industry contribution fund under this Part for each designated disease control service.
- (2) An industry contribution fund is to be called the “[*name of designated disease*] industry contribution fund”.
- (3) Money in an industry contribution fund is under the control of the Director-General and can be expended by the Director-General only for the purposes authorised by this Act.

10 Purpose of industry contribution fund

- (1) The purpose of an industry contribution fund is to provide a means by which the relevant designated livestock producers can make an appropriate contribution to fund the designated disease control service provided to them.
- (2) Contributions to an industry contribution fund are voluntary.

11 Payments into industry contribution fund

- (1) There is payable into an industry contribution fund:
 - (a) monetary contributions to the fund by the relevant designated livestock producers, and
 - (b) monetary contributions to the fund by any other person or body, and
 - (c) money required by law to be paid to the fund.
- (2) Rural lands protection boards, local councils and other public or local authorities are authorised by this section to make contributions to an industry contribution fund if they wish to do so.

12 Payments out of industry contribution fund

- (1) There is payable from an industry contribution fund:
 - (a) the costs of the relevant designated disease control service (as approved by the Minister), and
 - (b) the costs of administration of the fund (including allowances payable to members of the relevant industry advisory committee and any other expenses of the committee), and
 - (c) money required by law to be paid from the fund.
- (2) Before approving the payment from the fund of the costs of the relevant designated disease control service, the Minister is to have regard to the advice of the relevant industry advisory committee about the policies and priorities for expenditure from the fund.

Part 4 Compulsory industry funding

13 Imposition of industry levy

- (1) The Minister may (but need not) authorise the imposition of an industry levy to assist the funding of any designated disease control service.
- (2) The Minister may give such an authorisation if satisfied, having regard to the advice of the industry advisory committee concerned, that the relevant industry contribution fund may not be sufficient to fund the necessary service.
- (3) Any such authorisation is to be given by an order of the Minister published in the Gazette.
- (4) The Director-General is to impose industry levies in accordance with this Act if authorised to do so by any such order of the Minister.
- (5) A statement in an order giving any such authorisation that the Minister has complied with the requirement of subsection (2) is conclusive evidence of compliance with that requirement.
- (6) Sections 40 (Notice of statutory rules to be tabled) and 41 (Disallowance of statutory rules) of the *Interpretation Act 1987* apply to an order giving any such authorisation in the same way as they apply to a statutory rule.

14 Liability for industry levy

- (1) An industry levy is a rate levied on the occupiers of all ratable land on which livestock in respect of the designated disease control service concerned is raised by or on behalf of designated livestock producers. The rate is to be levied according to the carrying capacity of the land.
- (2) However, an industry levy is not payable by a person in respect of a levy period if the person has, during that period, contributed at least the relevant minimum contribution to the industry contribution fund established for the designated disease control service.

- (3) For the purposes of this section, the *relevant minimum contribution* is the amount specified, or determined in the manner specified, in the order imposing the industry levy or in a subsequent order of the Minister published in the Gazette.

15 Levy period

- (1) An industry levy is payable in respect of each financial year commencing 1 July.
- (2) However, the Minister may, by the order imposing the levy or by a subsequent order published in the Gazette, direct that the levy is payable in respect of a different period.
- (3) The period in respect of which the levy is payable is called the *levy period* for the purposes of this Act.

16 Amount of industry levy

- (1) The amount of an industry levy is to be calculated by the Director-General at the rate fixed by the Minister in the order authorising the levy or in a subsequent order of the Minister published in the Gazette.
- (2) The rate fixed by the Minister may provide for a minimum or maximum amount of levy to be payable, or for no amount to be payable if the carrying capacity of the ratable land does not exceed a minimum carrying capacity.

17 Refunds of levy to contributors to industry contribution fund

- (1) If a person has paid an industry levy in respect of a levy period and has also made a contribution during that period, of at least the relevant minimum contribution referred to in section 14, to the industry contribution fund established for the designated disease concerned, the person is entitled to a refund from the industry levy fund of the amount of the industry levy paid by the person.
- (2) The Director-General is responsible for making refunds under this section.
- (3) Applications for, and payment of, the refund are to be made in accordance with such procedures as the Director-General determines.

18 Separate fund for industry levies

- (1) The Director-General is to establish a separate industry levy fund for money collected from each industry levy.
- (2) An industry levy fund is to be called the “[*name of designated disease*] industry levy fund”.
- (3) Money in an industry levy fund is under the control of the Director-General and can be expended by the Director-General only for the purposes authorised by this Act.

19 Payments into industry levy fund

There is payable into an industry levy fund:

- (a) money received from an industry levy under this Part for the designated disease control service concerned, and
- (b) money advanced by the Treasurer for the fund, and
- (c) money appropriated by Parliament for the purposes of the fund. and
- (d) money required by law to be paid to the fund.

20 Payments out of industry levy fund

- (1) There is payable from an industry levy fund:
 - (a) the costs of any part of the relevant designated disease control service that is not funded from the relevant industry contribution fund (as approved by the Minister), and
 - (b) any refund of an industry levy to persons who have contributed to the relevant industry contribution fund as provided by section 17, and
 - (c) the costs of collection of the industry levies payable to the fund and of the administration of the fund, and
 - (d) money required by law to be paid from the fund.
- (2) Before approving the payment from the fund of the costs of the relevant designated disease control service, the Minister is to have regard to the advice of the relevant industry advisory committee about the policies and priorities for expenditure from the fund.

Part 5 Collection of industry levies

21 Application

This Part applies to the collection of industry levies imposed by the Director-General under Part 4.

22 Obtaining information from boards

- (1) The Director-General may, by notice in writing, require a rural lands protection board to supply to the Director-General such information with respect to ratable land and other matters as the Director-General requires for the purposes of the imposition and collection of industry levies.
- (2) Any such board is required to supply that information within the time and in the form required by the Director-General despite any restriction imposed by law on the disclosure of that information by the board.

23 Boards required to collect industry levies

- (1) The Director-General may, by notice in writing, direct a rural lands protection board to collect the industry levies imposed by the Director-General in respect of ratable land in the district for which the board is established.
- (2) A rural lands protection board is to collect any such industry levy in the same manner as it collects a rate imposed under the *Rural Lands Protection Act 1989*.
- (3) Any amount collected by any such board is to be paid to the Director-General within such time and in such manner as the Director-General directs.
- (4) Any such board is to be paid such amount for the collection of industry levies as the Minister determines having regard to the advice of the board and the relevant industry advisory committee. The arrangements for that payment may include the retention by the board of a percentage of industry levies collected by the board.

- (5) A failure by any such board to collect or pay the levy, or to comply with any requirement made by or under this Act with respect to the levy, is taken to be a contravention by the board of the *Rural Lands Protection Act 1989* and may be dealt with accordingly.

24 Application of Rural Lands Protection Act 1989

- (1) The *Rural Lands Protection Act 1989* applies, for the purposes of the collection of an industry levy, as if the industry levy were a rate imposed by a rural lands protection board under that Act.
- (2) That Act so applies with any necessary modifications and with such modifications as are prescribed by this Part or the regulations.
- (3) The regulations may provide that a function exercisable by a rural lands protection board under that Act may be exercised by the Director-General in connection with industry levies under this Act.
- (4) In this section, *modifications* includes additions and omissions.

25 Reviews of decisions of Director-General by ADT

- (1) A person who is required to pay an industry levy under this Act may apply to the Administrative Decisions Tribunal for a review of any of the following decisions of the Director-General with respect to the levy:
- (a) a decision that the person is liable to pay the levy,
 - (b) a decision as to the amount of the levy that the person is liable to pay,
 - (c) a decision not to make a refund to the person under section 17.
- (2) A decision is not subject to review under this section on the grounds of a dispute about the carrying capacity of ratable land.

Part 6 General provisions relating to industry funds

26 Investment of money in industry funds

- (1) The Minister is to invest money in an industry fund:
 - (a) in the manner authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
 - (b) if that Act does not confer power on the Minister to invest the money—in any manner approved by the Treasurer.
- (2) The proceeds of investment of money in an industry fund are to be paid into that fund.
- (3) Money in all or any of the industry funds may be invested as a common pool. The proceeds of investment are to be distributed among the industry funds that contributed money to the common pool according to the amount contributed.

27 Internal loans between industry funds

- (1) Money held in any industry fund (being money that is not yet required for the purposes of that fund) may be lent (by way of an internal loan) to any other industry fund if the Minister approves.
- (2) However, money in an industry contribution fund cannot be lent to an industry levy fund and money in an industry levy fund cannot be lent to an industry contribution fund.
- (3) The terms of the loan (including the time for repayment and any additional amount, in the nature of interest, that is to be paid) are to be as determined by the Minister.
- (4) Before any such loan is made, the Minister is to have regard to any advice of the industry advisory committees concerned.

28 Appointment of agents to administer expenditure from industry funds

The Director-General may appoint the Rural Assistance Authority, or any other body, as an agent to administer any expenditure from an industry fund.

29 Audit of industry funds

- (1) The Auditor-General is to inspect and audit the accounts and records of financial transactions of the industry funds.
- (2) Any such inspection and audit is to be conducted under section 45 of the *Public Finance and Audit Act 1983*.

30 Annual reports by Director-General

- (1) As soon as practicable after 30 June, but on or before 31 December, in each year, the Director-General must prepare and forward to the Minister a report on the operation of industry funds under this Act. The report is to include any report of the Auditor-General under section 45 of the *Public Finance and Audit Act 1983* with respect to the audit of the industry funds for the reporting year.
- (2) The Minister must cause each such report to be laid before both Houses of Parliament as soon as practicable after receiving the report.
- (3) A report under this section need not be separately prepared but may form part of the report prepared for the Department of Agriculture under the *Annual Reports (Departments) Act 1985*.

Part 7 Miscellaneous

31 Act to bind Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.

Note. This section does not make the Crown liable to pay an industry levy because the levy is only payable in respect of ratable land (as defined in section 3).

32 Proceedings for offences

Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

33 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) A regulation may create an offence punishable by a penalty not exceeding 20 penalty units.

34 Savings, transitional and other provisions

Schedule 2 has effect.

35 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Constitution and procedure of industry advisory committees

(Section 8)

1 Definitions

In this Schedule:

Chairperson means the Chairperson of an industry advisory committee.

member means any member of an industry advisory committee.

2 Terms of office of members

Subject to this Schedule, a member holds office for such period as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

3 Allowances

A member is entitled to be paid such allowances as the Minister may from time to time determine in respect of the member.

4 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of a member, and the Minister may revoke any such appointment.
- (2) In the absence of a member, the member's deputy may, if available, act in the place of the member.
- (3) While acting in the place of a member, a person:
 - (a) has all the functions of the member and is taken to be a member, and
 - (b) is entitled to be paid such allowances as the Minister may from time to time determine in respect of the person.
- (4) For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.

5 Vacancy in office of member

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 4 consecutive meetings of the industry advisory committee of which reasonable notice has been given to the member personally or by post, except on leave granted by the committee or unless the member is excused by the committee for having been absent from those meetings.
- (2) The Minister may at any time remove a member from office.

6 Filling of vacancy in office of member

If the office of any member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

7 Effect of certain other Acts

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a member.
- (2) If by or under any Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

8 General procedure

The procedure for the calling of meetings of an industry advisory committee and for the conduct of business at those meetings is, subject to this Act, the regulations and any direction of the Minister, to be as determined by the committee.

9 Quorum

The quorum for a meeting of an industry advisory committee is a majority of its members.

10 Presiding member

- (1) The Chairperson (or, in the absence of the Chairperson, a person elected by the members present to chair the meeting) is to preside at a meeting of an industry advisory committee.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

11 Voting

A decision supported by a majority of the votes cast at a meeting of an industry advisory committee at which a quorum is present is the decision of the committee.

12 Transaction of business outside meetings or by telephone

- (1) An industry advisory committee may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the committee for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the committee.
- (2) An industry advisory committee may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

- (3) For the purposes of:
- (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),
- the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the committee.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the committee.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

13 First meeting

The Minister may call the first meeting of an industry advisory committee in such manner as the Minister thinks fit.

Schedule 2 Savings, transitional and other provisions

(Section 34)

1 Regulations

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

This Act

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

2 Amendment of this Act following commencement of Rural Lands Protection Act 1998

On the commencement of the *Rural Lands Protection Act 1998*, this Act is amended as follows:

- (a) by omitting from the definition of **occupier** in section 3 and from sections 23 and 24 "*Rural Lands Protection Act 1989*" wherever occurring and by inserting instead "*Rural Lands Protection Act 1998*",
- (b) by omitting the definitions of **carrying capacity** and **ratable land** in section 3 and by inserting instead the following definitions:

carrying capacity means notional carrying capacity within the meaning of Part 7 of the *Rural Lands Protection Act 1998*.

rateable land means rateable land within the meaning of section 60 of the *Rural Lands Protection Act 1998*.

[Minister's second reading speech made in—
Legislative Assembly on 11 November 1998
Legislative Council on 23 November 1998]