

1993—No. 318

EXOTIC DISEASES OF ANIMALS ACT 1991—REGULATION

(Exotic Diseases of Animals (General) Regulation 1993)

NEW SOUTH WALES



[Published in Gazette No. 80 of 16 July 1993]

His Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Exotic Diseases of Animals Act 1991, has been pleased to make the Regulation set forth hereunder.

I. R. CAUSLEY,
Minister for Agriculture and Fisheries.

Citation

1. This Regulation may be cited as the Exotic Diseases of Animals (General) Regulation 1993.

Commencement

2. This Regulation commences on 16th July, 1993.

Definition

3. In this Regulation, “**the Act**” means the Exotic Diseases of Animals Act 1991.

Possession of exotic disease agent

4. For the purposes of section 9 (2) of the Act, a person who has the authority of the Chief Veterinary Officer under that subsection must be undertaking or assisting in:

- (a) the diagnosis of disease in humans or animals; or
- (b) the manufacture of vaccines; or

- (c) some other veterinary, medical or scientific research or activity of a kind specified in the authority.

Permit for movement in an infected place or vehicle

5. A person who, under the authority of a permit, brings, moves or takes any animal, animal product, fodder or fitting into, within or out of any premises, place or area declared to be an infected place or any vehicle declared to be an infected vehicle must carry the permit at all relevant times and must produce the permit to an inspector on demand.

Maximum penalty: 5 penalty units.

Charges incurred in seizing certain animals and property

6. For the purposes of section 42 (2) of the Act, payment may be required to be made for the reasonable cost, at current market rates, of the following charges incurred in connection with the seizure and impounding of an animal or other thing seized under section 41 (a) or (c) of the Act:

- charges incurred in the purchase or hire of materials or equipment used in the seizure;
- charges incurred in paying the salary of the inspector for the time involved in the seizure, calculated by reference to the hourly rate of pay of the inspector at the time of the seizure, plus an additional 50 per cent of the salary so paid;
- charges incurred in paying fees to persons engaged to assist the inspector in relation to the seizure;
- charges incurred in keeping and storing the animal or thing during the time that it was impounded;
- charges incurred in relation to the agistment or maintenance of the animal or thing during that time.

Claims for compensation

7. (1) For the purposes of section 61 (a) of the Act, a claim for compensation under Part 7 of the Act must contain (but need not be limited to) the particulars specified in Schedule 1.

(2) The claim must be signed by the following people:

- (a) the person making the claim;
- (b) an adult person who witnesses the signature of the person making the claim;

- (c) the inspector approved by the Chief Veterinary Officer to agree with the owner on the market value of the animal or property or the person nominated by the Minister and the owner to determine the market value of the animal or property.

(3) For the purposes of section 61 (b) of the Act, the manner of making the claim is to lodge it personally at an office of the Department of Agriculture.

Delegation

8. For the purposes of section 67 of the Act, the persons holding the following positions in the Department of Agriculture are prescribed:

- Deputy Director-General;
- Executive Director, Regulatory;
- Regional Director of Agriculture:

North Coast

New England, Hunter and Metropolitan

Orana and Far Western

Central West, South East and Illawarra

Murray and Riverina.

Forms

9. All documents prepared for the purposes of the Act or this Regulation must be in a form approved by the Chief Veterinary Officer.

Service of orders and notices

10. (1) An order or notice issued, made or given under the Act must be served personally, except as provided by subclause (2).

(2) An order or notice may be served in the manner provided by subclause (3) if:

- (a) after due search and inquiry, the person or persons on whom the order or notice is to be served cannot be found or are believed to be otherwise unavailable for personal service; and
- (b) the inspector or other person exercising the power to serve the order or notice reasonably believes that the object of the order or notice will be defeated if it is not served without delay.

(3) The manner provided by this subclause for the service of a notice or order is:

- (a) in the case of a notice issued by an inspector under section 13 (1) of the Act—by affixing it to the principal entrance to the infected place or by affixing it to the windscreen of the infected vehicle; or
 - (b) in the case of a notice under section 14 (1) of the Act:
 - by leaving the notice with someone apparently of or above the age of 16 years at, or by posting or transmitting the notice by facsimile machine to, the last known place of residence or business of the owner or person in charge or in apparent control of the premises, place or area; or
 - by affixing the notice to the principal entrance of the place, premises or area; or
 - by causing the notice to be printed in a local newspaper; or
 - (c) in the case of a notice under section 14 (2) of the Act—by affixing it to the windscreen of the vehicle; or
 - (d) in the case of written notice, under section 37 of the Act, of a quarantine order or of any determination made by the Chief Veterinary Officer under Division 1 of Part 5 of the Act—by affixing it to the principal entrance to the relevant premises or place or by affixing it to the windscreen of the relevant vehicle; or
 - (e) in the case of a disinfection order made by an inspector under section 39 of the Act—by posting the order, or by transmitting the order by facsimile machine, to the last known place of business or residence of the owner of the relevant premises or place or by affixing the notice to the windscreen of the relevant vehicle; or
 - (f) in the case of an order under section 42 of the Act—by leaving the order with someone apparently of or above the age of 16 years at, or by posting or transmitting the order by facsimile machine to, the last known place of residence or business of the owner of the animal or other thing or by affixing the notice to the windscreen of the relevant vehicle; or
 - (g) in the case of a notice given by an inspector under section 46 (1) of the Act—by leaving the notice with someone apparently of or above the age of 16 years at, or by posting or transmitting the notice by facsimile machine to, the last known place of residence or business of the owner or person in charge or in apparent control of the premises, place or area or by affixing the notice to the windscreen of the relevant vehicle.
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SCHEDULE 1—CLAIMS FOR COMPENSATION

(Cl. 7)

Date of claim**Details of ownership**

- Name of the owner(s).
- Residential and postal address(es) of the owner(s).

Nature of each owner's interest in the animals or property**Details of animals in respect of which the claim is made**

- Itemised description of the animals destroyed pursuant to the Act or certified by an inspector as having died of an exotic disease.
- Place where the animals were ordinarily kept before their destruction or death.
- Date of destruction or death of the animals.
- (In the case of an animal that has died of an exotic disease) Date of notification given to the Director-General or an inspector that the animal had been affected by, or had died of, an exotic disease.

Details of property in respect of which the claim is made

(Note: property means any premises, animal products, fodder, fittings and vehicles)

- Itemised description of the property destroyed.
- Date of destruction of the property.

Value of animals or property

- Itemised market value of the animals or property in respect of which the claim is made. The value is that determined:
 - by an agreement between the owner and inspector;
or
 - by a valuer nominated by the Minister and owner.
- Total amount of compensation claimed.

Details of inspector who certified the death of an animal

- (In the case of an animal that has died of an exotic disease) Name of the inspector, authorised by the Chief Veterinary Officer, who certified under section 55 (1) (b) of the Act that the animal died of an exotic disease.
- Date of the certification.

Details of valuation

- Name of the inspector with whom the owner agreed, under section 59 (1) of the Act, on the value of the animal or property.
- or
- Name of the valuer nominated, under section 59 (2) of the Act, to determine the market value.

Declaration by the owner(s)

- Declaration by the owner(s):
 - that the particulars and descriptions in the claim are correct; and
 - that the value is correct (if the value was reached by agreement with the owner).

Additional details and declaration (required if the claim is made by a person other than the owner or by a person who is not the sole owner)

- Name, residential and postal address of the person making the claim.
- Description of the claimant's interest in the claim and how that interest was obtained.
- Declaration by the claimant:
 - that the claimant has the authority of the owner (or of each other owner) to make the claim; and
 - that all the particulars and descriptions in the claim are correct.

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SCHEDULE 1—CLAIMS FOR COMPENSATION

EXPLANATORY NOTE

The Exotic Diseases of Animals Act 1991 provides a scheme for the detection, containment and eradication of certain diseases affecting livestock and other animals. The Act also provides a scheme of compensation for animals killed by, and animals and property destroyed in connection with, an exotic disease.

The object of this Regulation is to prescribe the following matters:

- the capacity in which a person who has the authority of the Chief Veterinary Officer, under section 9 (2) of the Act, to possess an exotic disease agent must be acting in order to have the benefit of the authority;
- that the holder of a permit for the entry of any animal, animal product, fodder or fitting to or from any infected place or vehicle must carry the permit at all relevant times and produce it on demand;
- the expenses incurred in seizing animals or property under section 42 of the Act for which a charge may be required to be paid before the seized animal or property is released;
- the particulars and manner of lodgment of a claim for compensation under section 61 of the Act by or on behalf of any owner of any domestic animal or certain other property that has been destroyed or of any domestic animal that has been certified by an inspector as having died of an exotic disease;
- additional officers of the Department of Agriculture to whom the Minister may, under section 67 of the Act, delegate in writing all or any of the powers of the Minister under the Act;
- an appropriate manner of service of some orders or notices made under the Act by the Minister, the Chief Veterinary Officer or an inspector.

The Regulation also provides that the Chief Veterinary Officer may approve forms for the purposes of the Act.
