

# Swine Compensation Act 1928 No 36

[1928-36]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 September 2006 to 9 December 2008 (accessed 20 December 2024 at 12:33)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Miscellaneous Acts \(Local Court\) Amendment Act 2007 No 94](#) (not commenced)
- **Repeal**  
The Act was repealed by Sch 4 to the [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2008 No 114](#) with effect from 10.12.2008.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Swine Compensation Act 1928 No 36



New South Wales

An Act to provide for the establishment of a Swine Compensation Fund, and for the payment therefrom of compensation to the owners of pigs and carcasses of pigs destroyed as suffering from disease; and for purposes connected therewith.

## Part 1 Preliminary

### 1 Name of Act and commencement

- (1) This Act may be cited as the *Swine Compensation Act 1928*.
- (2) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

### 2 (Repealed)

### 3 Definitions

In this Act, unless the context otherwise indicates or requires:

**Abattoir** means an abattoir or slaughter-house as defined in section 4 of the *Meat Industry Act 1978*.

**Approved form** means a form approved for the time being by the Director-General.

**Carcass** means the carcass of any pig.

**Department** means the Department of Primary Industries.

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

**Disease** means any disease in respect of which the provisions of this Act or any of them are applied in pursuance of section 4.

**Fund** means the Swine Compensation Fund established under this Act.

**Market value** of a pig means the value of the pig calculated as upon a sale with delivery at the place where the pig is when ordered to be destroyed.

**Owner** includes the authorised agent of the owner.

**Pig** means any boar, sow, barrow, or sucker.

**Prescribed** means prescribed by this Act or by the regulations.

**Regulations** means regulations made under this Act.

#### 4 Diseases in respect of which Act applies

(1) The Governor may by proclamation published in the Gazette declare that:

- (a) any disease of pigs,
- (b) any condition of ill-health or departure from the normal health of pigs, or
- (c) the infestation of pigs 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 or such of those provisions as may be specified in the proclamation shall apply.

(2) The Governor may by proclamation published in the Gazette revoke or amend at any time a proclamation under this section.

**Editorial note—**

For proclamations under this section, see the Historical notes at the end of this Act.

## Part 2 Swine compensation

### 5 Compensation payable to certain owners

(1) Subject to this Act, compensation shall be payable:

- (a) to the owner of any pig destroyed pursuant to an order made or given under the authority of any Act or of any regulation under any Act, because such pig is suffering from or 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 pig destroyed by the order of an approved person because such pig is suffering from or suspected of suffering from disease.

(2) For the purposes of subsection (1) (c), **approved person** means:

- (a) an inspector under the [Stock Diseases Act 1923](#),
- (b) an employee under an Act of the Parliament of the Commonwealth who, in the employee's capacity as such, engages in the inspection of meat, or

- (c) a person approved for the time being by the Minister for the purposes of this Act, either generally or in a particular case, and who is a veterinary practitioner (within the meaning of the *Veterinary Practice Act 2003*) or a person employed as a veterinary surgeon under an Act of the Parliament of the Commonwealth.

## **6 Amount of compensation**

- (1) The amount of compensation payable in respect of any pig destroyed because the pig is suffering, or is suspected of suffering, from disease is:
  - (a) if after destruction the pig is found to be free from disease, the market value of the pig, or
  - (b) if after destruction the pig is found to be diseased, nine-tenths of the market value of the pig.
- (2) The amount of compensation payable in respect of any diseased carcass condemned as unfit for human consumption because of disease is three-quarters of the market value of the pig before slaughter.
- (3) The amount of compensation payable in respect of a portion of a diseased carcass condemned as unfit for human consumption because of disease is:
  - (a) for the forequarters of a diseased carcass—one-quarter of the market value of the pig immediately before slaughter, and
  - (b) for the hindquarters of a diseased carcass—one-half of the market value of the pig immediately before slaughter.

## **7 Determination of market value of pig**

- (1) The market value of any pig so destroyed, or of any carcass, or portion thereof so condemned, shall be determined by agreement between the owner thereof and the person by whose order or under whose authority such pig was destroyed or such carcass or portion thereof was condemned, as the case may be.
- (2) In default of such agreement the market 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 pig so destroyed or of any carcass, or portion of a carcass, so condemned shall be determined in the 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.
- (5) The Minister may, by order published in the Gazette, determine the maximum amount of compensation payable under this Act in respect of pigs generally or in respect of

pigs of a particular class.

- (6) In making such a determination, the Minister is to have regard to the value in the market place of pigs generally, or of pigs of the class to which the determination relates, as the case requires.
- (7) For the purposes of this Act, the market value of a pig (as determined under this section) is not to exceed the maximum amount specified in respect of pigs generally, or of pigs of the class to which the pig belongs, by a determination in force under this section.

## **8 Application for compensation**

- (1) Compensation is payable under this Act only if the owner of the pig destroyed, or carcass or portion of a carcass condemned, makes an application for compensation in the approved form within 60 days after the pig is destroyed or the carcass or portion condemned.
- (2) The owner is to forward with the application a certificate in the approved form furnished by the person by whose order, or under whose authority, the pig was destroyed or the carcass or portion condemned, verifying that the pig was destroyed or carcass or portion condemned and stating the reasons for the destruction or condemnation.
- (3) If a pig was destroyed on the order of the Minister the certificate may be furnished by an approved person as referred to in section 5 (2).
- (4) No compensation shall be payable:
  - (a) if the head or part of the head only of a carcass is condemned, or
  - (b) where the owner of a pig affected with the disease has failed to comply with the provisions of any Act or regulation for the time being in force requiring the owner to give notice of the existence of such disease, or
  - (c) unless the Director-General is satisfied:
    - (i) (Repealed)
    - (ii) that the owner claiming compensation has complied with this Act with respect to applications and claims for compensation, or
  - (d) in respect of a pig introduced into New South Wales which is destroyed because such pig is suffering from or suspected to be suffering from swine fever if such pig is ordered to be destroyed within 1 month after its introduction, unless the Director-General is satisfied that the pig became so diseased after being introduced, or unless it is found to be free from disease, or

- (e) in respect of a pig which is destroyed because such pig is suffering from or suspected to be suffering from disease or in respect of the carcass of a pig or any portion thereof which is condemned as unfit for human consumption because of disease where in the opinion of the Director-General:
  - (i) the owner thereof purchased the pig knowing or having reasonable cause to suspect that the pig was, at the time of purchase, suffering from disease, or
  - (ii) if the pig was introduced into New South Wales and at the time of introduction such pig was known to be, or there was reasonable cause to suspect that such pig was, suffering from disease, or

(f) in respect of:

- (i) a pig which is destroyed because the pig is suffering from or suspected to be suffering from disease, or
- (ii) the carcass of a pig or any portion thereof which is condemned because of disease,

unless, in the case of a pig or carcass that was destroyed or condemned while it was required by section 19A of the *Stock Diseases Act 1923* to be identified in the manner prescribed by section 19C (1A) of that Act, the pig or carcass was so identified.

- (5) No compensation, or only such part of the compensation otherwise payable as the Director-General thinks reasonable, shall be payable under this Act to any owner if within the period of 2 years preceding the date of the owner's application for compensation the owner has been convicted:
  - (a) of an offence against this Act or the regulations, or
  - (b) of an offence in connection with a pig against the *Stock Diseases Act 1923*, or the regulations made thereunder, or
  - (c) of an offence against any provision relating to diseases in pigs or pig products or the carcasses of pigs contained in any Act or in any regulation made under any Act.
- (6) No compensation shall be payable to the owner of any pig destroyed because it is suffering from or suspected to be suffering from swine fever if the Minister is satisfied that it has at any time during the month immediately preceding its destruction been fed on unboiled garbage or household scraps, unless it is found on post-mortem examination to be free from swine fever.

## **9 Compensation money may be applied in payment of debt to Government**

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 the person, the combination shall be applied in the first place in payment of the debt, and the balance, if any, shall be paid to such person.

**10 (Repealed)**

**11 Persons trafficking in diseased pigs or carcasses with a view to compensation**

Any person:

- (a) who buys or sells or attempts to buy or sell any pig knowing or having reasonable cause to suspect the pig to be diseased and with the intention (in the opinion of the Court before which the person 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 knowing or having reasonable cause to suspect such carcass to be diseased, and with the intention (in the opinion of the Court before which the person 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 of not less than 0.5 penalty unit nor more than 5 penalty units for every such pig or (as the case may be) for every such last-mentioned carcass.

**Part 3 Swine Compensation Fund**

**12 Establishment of Fund**

- (1) There shall be established and kept in the Treasury an account in Special Deposits Account to be called the Swine Compensation Fund.
- (2) All penalties recovered under this Act and the regulations, and interest earned from the use or investment of Fund moneys pursuant to subsection (2A) shall be paid to the credit of the Fund.
- (2A) Such part of the moneys at the credit of the Fund as is, in the opinion of the Minister, not immediately required for the purposes of the Fund may be used or invested by the Treasurer in such manner as the Treasurer may determine.
- (2B) Interest at a rate to be determined by the Treasurer shall be allowed on any amount used by the Treasurer pursuant to subsection (2A).
- (3) The Fund shall be applied to the payment of:
  - (a) claims for compensation in accordance with the provisions of this Act,
  - (b) (Repealed)

- (c) any expenses incurred in obtaining a determination of the value of a pig or of a carcass or portion thereof in accordance with section 7 (2),
- (d) any expenditure approved by the Minister relating to research into diseases of pigs or research into problems affecting pig production, and
- (e) any expenditure approved by the Minister relating to the reimbursement of pastures protection boards for:
  - (i) administrative costs incurred by those boards, on or after 27 February 1980, in connection with the allotment or cancellation, under the *Swine Branding Act 1940*, of brands, the allotment, under the *Stock Diseases Act 1923*, of particulars of identification to be used for identifying pigs or the cancellation, under that Act, of certificates of registration specifying any such particulars, and
  - (ii) amounts paid, on or after 27 February 1980, to the proprietors of brands registered under the *Swine Branding Act 1940*, for the surrender to those boards of branding irons designed to impress brands so registered.

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 1 July 1968, and in each succeeding year commencing on 1 July, an amount equal to 5 per cent of the total sum paid to the credit of the Fund during the preceding period of 12 months or an amount of \$2,000, whichever is the larger.

- (3A) The expenditure approved in any year pursuant to subsection (3) (d) shall not exceed the amount earned as interest on moneys used or invested pursuant to subsection (2A), reduced by the amount paid to the credit of the Consolidated Revenue Fund as costs of administration pursuant to subsection (3) in respect of the year in which the interest was earned.
- (4) Any sum at any time required for the payment of compensation under this Act shall, so far as the Fund is insufficient for the payment thereof, be advanced by the Treasurer.
- (5) Any sum advanced by the 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.

### **13-15 (Repealed)**

## **Part 4 Miscellaneous**

### **16 Penalty in cases not provided for**

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 the provisions of this Act, shall be liable upon summary conviction to a penalty of not more than 2 penalty units.

**16A (Repealed)**

**17 Penalty on persons making charges etc for insurance purposes on sale of pigs etc**

- (1) If on the sale of any pig (whether sold singly or as part of a lot) to any person any such person or the person's 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 the death of the pig before it reaches the premises of the purchaser or by reason of any disease in or injury to the pig, such person or agent shall be guilty of an offence and liable for every such offence to a penalty not exceeding 5 penalty units.
- (2) Any condition expressed 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 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 the 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.
  - (b) Every company or other body of persons guilty of an offence under this section shall be subject to the same penalties as if it were a private person; and if any chairperson, 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 or she shall also be liable therefor.

**18 Regulations**

- (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 in particular and without limiting the generality of the foregoing power, the Governor may:

- (a) prescribe the method of dealing with the verification of applications for compensation,
  - (b) (Repealed)
  - (c) impose a penalty not exceeding 2 penalty units for any contravention of or failure to comply with any regulation.
- (2) (Repealed)
- (3) Any penalty imposed by the regulations may be recovered in a summary manner before a Local Court.

## **19 Savings, transitional and other provisions**

Schedule 1 has effect.

### **Schedule 1 Savings, transitional and other provisions**

(Section 19)

## **Part 1 Provisions consequent on enactment of [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2004](#)**

### **1 Continuity of things done by Chief, Division of Animal Industries**

Anything done by the Chief, Division of Animal Industries under or for the purposes of a provision of this Act is, to the extent that the thing done had effect immediately before the amendment of this Act by the [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2004](#), taken to have been done by the Director-General.