

Queensland



ANNO UNDECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 2

An Act to provide for the establishment of a Swine Compensation Fund and for the compensation of owners of swine which may be destroyed, and for the control, eradication or prevention of disease in swine, and for purposes connected therewith

[ASSENTED TO 22ND MARCH, 1962]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as "*The Swine Compensation Fund Act of 1962.*" Short title

* (2) Save as herein otherwise provided, this Act shall Commence- come into operation on a date to be fixed by the Governor ment in Council by Proclamation published in the *Gazette*.

* Commenced 28 May 1962. (Proc. pubd. Gaz. 19 May 1962, p. 331).

Severability

2. This Act including every Proclamation, Order in Council and regulation hereunder shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment hereof or provision of any Proclamation, Order in Council or regulation hereunder would but for this section have been construed as being in excess of that power, it shall nevertheless be a valid enactment or provision to the extent to which it is not in excess of that power.

Interpre-
tation

3. In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say :—

Agent

“Agent”—In relation to the sale of any pig—

(a) any stock or station agent, auctioneer or other person whomsoever who on behalf of the owner or purchaser sells or purchases the pig; or

(b) where the sale price of the pig is to be determined subsequent to its slaughter, the purchaser,

shall, for the purposes of this Act, be deemed to have acted in the transaction as the agent of the owner, and any reference in this Act to the agent of the owner shall include every such person.

Where any agent within the meaning of the foregoing provisions of this definition is a body corporate or unincorporate, the term includes the manager, secretary or other controlling officer thereof.

Chief
Inspector

“Chief Inspector”—The Chief Inspector of Stock appointed under “*The Stock Acts, 1915 to 1960*” ;

Disease

“Disease”—Any disease of pigs declared by the Governor in Council by Order in Council to be a disease under and for the purposes of this Act ;

Exotic
disease

“Exotic disease”—Any disease of pigs declared by the Governor in Council by Order in Council to be an exotic disease under and for the purposes of this Act ;

- “ Fund ”—The Swine Compensation Fund ^{Fund} established under this Act ;
- “ Inspector ”—An inspector appointed under ^{Inspector} “ *The Stock Acts, 1915 to 1960,*” or “ *The Slaughtering Acts, 1951 to 1958* ” ;
- “ Market value ”—The value of a pig calculated ^{Market value} as upon a sale with delivery at the place where the pig is when ordered to be destroyed ;
- “ Minister ”—The Minister for Agriculture and ^{Minister} Forestry or other Minister of the Crown for the time being charged with the administration of this Act ;
- “ Owner ”—Includes any person having or ^{Owner} claiming either alone or with another or others any right, title or interest to or in any pig, and the agent of the owner; in the case of a body corporate or unincorporate the term includes the manager, secretary or other controlling officer thereof;
- “ Pig ”—Any boar, sow, barrow, or pig of any ^{Pig} age or either sex ;
- “ Statement ”—A statement required under this ^{Statement} Act to be written out on the sale of any pig or pigs ;
- “ Stud pig ”—Any pig registered as a stud pig ^{Stud pig} by the Australian Pig Society.
4. The Governor in Council may at any time and ^{Disease and exotic disease} from time to time by Order in Council declare any disease of pigs—
- (i) to be a disease under and for the purposes of this Act; or
 - (ii) to be an exotic disease under and for the purposes of this Act.
5. The Governor in Council may at any time and ^{Maximum market value} from time to time declare a maximum market value in respect of any class of pigs for the purpose of assessing compensation payable under this Act.
6. (1) There shall be established and kept in the ^{Swine Compensation Fund} Treasury a Fund to be called “ The Swine Compensation Fund.”

- (2) There shall be paid to the credit of the fund—
- (a) all moneys received by or on behalf of the Crown in respect of stamp duty on statements under this Act ;
 - (b) all penalties recovered under this Act ;
 - (c) all moneys received by the State from any source for controlling, eradicating or preventing the spread of disease or exotic disease ; and
 - (d) any moneys which the Treasurer of Queensland at any time certifies to be required for payment by way of compensation under this Act (so far only as the fund is insufficient to pay any sums of money payable out of the fund) and moneys from Consolidated Revenue are hereby to the necessary extent appropriated accordingly.

(3) Any moneys paid out of Consolidated Revenue under subsection (2) of this section shall be deemed to be an advance to the fund and shall remain a charge on the fund to be recouped when moneys are available in the fund for that purpose.

Payments
out of fund

7. The fund shall be applied for the payment of—
- (a) compensation payable under this Act and all costs and expenses incidental to determining the compensation payable ;
 - (b) all costs, charges and expenses directly connected with the administration of this Act ;
 - (c) the recoument, when moneys are available in the fund for that purpose, of moneys paid into the fund from Consolidated Revenue under the provisions of section six of this Act ; and
 - (d) all costs, charges and expenses which may be incurred in connection with the control, eradication and/or prevention of disease in swine.

Compen-
sation

8. Subject to this Act, compensation shall be paid to the owner of any pig destroyed pursuant to an order made or given under the authority of this Act or of any other Act or regulation thereunder because that pig is suffering from or is suspected of suffering from disease or exotic disease.

9. Save as is hereinafter provided the amount of compensation payable under section eight of this Act in respect of any pig destroyed because that pig is suffering from or is suspected of suffering from exotic disease shall be the market value of that pig immediately before it became so affected, and in respect of any pig destroyed because that pig is suffering from or is suspected of suffering from disease shall be one-half of the market value of that pig immediately before it became so affected : ^{Amount of compensation}

Provided that such amount of compensation shall in no case exceed the amount declared by the Governor in Council by Order in Council under section five of this Act to be the maximum market value of the class of pigs to which the pig in question belonged.

10. (1) Subject to the provisions of this Act the market value of any pig referred to in section eight of this Act shall be determined by agreement between the owner thereof and the person by whose order or under whose authority the pig was destroyed. ^{Market value to be determined}

(2) Failing such agreement as aforesaid the Minister shall submit the matter for determination of the market value by some competent and impartial person appointed for the purpose by the Minister, and the determination of that person shall be final and conclusive.

(3) Subject as hereinafter provided, any person appointed under the provisions of subsection (2) of this section may make such order as he deems fit with respect to any prescribed costs of the submission:

Provided that where the market value determined under subsection (2) of this section is the value contended for by the owner upon the submission or is nearer to that value, costs shall not be awarded against the owner, otherwise costs shall not be awarded against the Minister.

For the purposes of this subsection, all prescribed costs incurred by the Crown in respect of the submission, including any prescribed payment by way of remuneration or allowance for expenses, or both, made to the person appointed by the Minister shall be deemed to be costs incurred by the Minister in respect of the submission.

(4) Where the Minister is ordered under the provisions of subsection (3) of this section to pay the costs of the owner, or any part of such costs, the amount so payable shall be paid by the Minister from the fund.

Where the owner is ordered under the provisions of subsection (3) of this section to pay the costs of the Minister, or any part of such costs, the Minister may deduct the amount so payable by the owner from the amount of compensation payable to him.

(5) Without prejudice to any other method of recovery, for the purpose of enforcing an order under this section for the payment of costs, or any part of such costs, by the owner to the Minister, a duplicate of the order, purporting to be certified to under the hand of the person appointed under subsection (2) of this section by the Minister, whereon there is endorsed the amount of the costs ordered to be paid may be filed by the Minister in the office of the clerk of petty sessions at or nearest to the place where the order is made and thereupon any justice may issue any warrant for the recovery of such costs or for the enforcement of the said order as if the order for the payment of costs had been made by a court of petty sessions, and the provisions of "*The Justices Acts, 1886 to 1960*," shall with all necessary adaptations apply to every such warrant ; but so that not more than the full amount of such costs shall be recovered.

When compensation
not payable

11. (1) No compensation for any pig referred to in section eight of this Act shall be payable unless within sixty days after the destruction of that pig an application for compensation in respect thereof is lodged and verified as prescribed.

(2) No compensation or only such part of the compensation otherwise payable as the Minister thinks reasonable shall be payable under this Act to any owner if, after the commencement of this Act, that owner has been convicted of an offence against this Act or against any provision relating to the control of disease in pigs, of "*The Stock Acts, 1915 to 1960*," or of any other Act.

(3) Notwithstanding the provisions of any other Act no further compensation shall be paid by the Crown for any pig for which compensation has been or may be paid under this Act.

(4) No compensation shall be payable to the owner of any pig referred to in section eight of this Act if the Minister is satisfied that at any time during the month immediately preceding its destruction that pig, or any other pig kept on the same holding where that pig was kept, was fed on unboiled garbage, offal or food scraps of any kind.

For the purposes of this subsection the term "holding" shall mean a holding as defined in "*The Stock Acts, 1915 to 1960.*"

(5) (a) No compensation shall be payable in respect of any pig referred to in section eight of this Act if that pig has been introduced into Queensland and is destroyed within one month of its introduction into Queensland unless the Chief Inspector is satisfied that the pig became affected with disease or exotic disease after its introduction into Queensland.

(b) Where—

(i) pursuant to paragraph (a) of this subsection, compensation is not payable in respect of any pig (in this paragraph referred to as an "introduced pig") destroyed within one month of its introduction into Queensland; and

(ii) such introduced pig was introduced into Queensland contrary in any respect to the provisions of "*The Stock Acts, 1915 to 1960,*" or of any Order in Council thereunder,

no compensation shall be payable in respect of any other pig kept on the same holding which is destroyed within one month of the introduction into Queensland of such introduced pig for that such other pig is suffering or suspected of suffering from the disease or exotic disease which caused the destruction of such introduced pig.

12. Where any person to whom compensation is payable under section eight of this Act is indebted to the Crown in respect of any advance of money or goods or other assistance rendered to him or any moneys or fees or assessments due and payable by him, any

Application
of compensa-
tion

compensation due and payable under this Act may, if the Minister in his discretion so directs, be applied wholly or partly, as may be so directed, in the first instance in payment of such debt and the balance, if any, shall be paid to that person.

Fraudulent,
&c., acts

13. Any person who—

- (a) buys or sells or attempts to buy or sell any pig knowing or having reasonable cause to suspect that such pig is suffering from disease or exotic disease 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 that pig; or
- (b) knowingly makes any statement which is in any respect false or misleading or who practises or is concerned in any fraudulent act with intent to mislead or defraud the Crown for the purpose of obtaining any pecuniary benefit either for himself or any other person under this Act,

shall be guilty of an offence against this Act.

Charge of
swine
sales
stamp duty

14. (1) On and from the commencement of this Act a swine sales stamp duty shall be charged for the use of Her Majesty upon every statement, which duty shall be at such rate for every one pound and also for any fractional part of one pound—

- (a) of the amount of the sale price in respect of every pig sold singly; or
- (b) of the total amount of the sale price in respect of any number of pigs sold in one lot,

as may be determined for the time being by the Governor in Council by Order in Council.

(2) The Governor in Council may from time to time by Order in Council determine the rate of the swine sales stamp duty imposed by this section:

Provided that the rate of such duty shall be one halfpenny for every one pound and also for any fractional part of one pound of the amount or total amount specified in paragraphs (a) or (b) of subsection (1) of this section until first determined by Order in Council under this subsection to be some other rate.

15. (1) Every owner of any pig or pigs or the agent of such owner 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 in whole or in part—

Statements
to be made
out on
sale of
pigs

- (a) write out or cause to be written out a statement setting forth the number of pigs so sold, the amount of the purchase money in respect of each pig, the date of the sale thereof, and the respective names and addresses of the vendor and purchaser thereof ;
 - (b) cause the said statement to be duly stamped by affixing to the statement swine sales duty stamps to the amount of the duty payable under this Act, and cancel such stamps; and
 - (c) give or by registered letter transmit the said statement to the purchaser within seven days of such sale or, in the case of an agent of an owner who is also the purchaser of the pig or pigs in question shall, with respect to such statement comply in all respects with the requirements of paragraph (b) of subsection (2) of this section.
- (2) Every purchaser of any pig or pigs—
- (a) shall within seven days of the purchase thereof, whether payment of the purchase money is or is not made in full at the time of the purchase or is to be made by instalments or is otherwise deferred in whole or in part, obtain from the owner of such pig or pigs or the agent of such owner the statement referred to in subsection (1) of this section containing the particulars therein prescribed and duly stamped with swine sales duty stamps to the amount of the duty payable under this Act and cancelled as required by this Act; and
 - (b) shall retain and preserve such statement for a period of six months after the sale of the pig or pigs concerned, and shall upon demand made at any time during that period by an inspector produce the statement for inspection.

Cancellation
of swine
sales duty
stamps

16. (1) A statement upon which swine sales stamp duty is required by this Act to be denoted by a swine sales duty stamp is not to be deemed to be duly stamped unless the person required by this Act to write out or cause to be written out such statement cancels such stamp by writing on or across the same his name or initials or, in the case of an employee, the name or initials of his employer, together with the true date of his so writing, or unless it is otherwise proved that the stamp appearing on the statement was affixed thereto at the proper time.

(2) Where two or more swine sales duty stamps are used to denote the swine sales stamp duty upon a statement, each and every stamp is to be cancelled in the manner aforesaid.

Printing, &c.,
of swine
sales duty
stamps

17. (1) The necessary swine sales duty stamps required pursuant to this Act shall be prepared and issued by the Minister, who shall provide for the distribution and sale thereof.

(2) The proceeds of the sale of all swine sales duty stamps shall be paid into and form part of the fund.

(3) No person other than the Government Printer shall print or make any swine sales duty stamp or any imitation thereof without the authority of the Minister.

(4) No person other than the Minister or a person authorised by him shall sell any swine sales duty stamp.

Powers, &c.,
of
inspectors

18. Any person authorised by the Minister, any inspector or any inspector under "*The Stamp Acts, 1894 to 1961,*" may require any person to produce to him for inspection any statements, receipts and other documents relating to the sale of pigs.

For the purposes of this subsection the expression "produce to him for inspection any statements, receipts and other documents relating to the sale of pigs" means that the person on whom the obligation is cast shall, to the best of his power, produce to the inspector for inspection all such statements, receipts and other documents.

Any person who fails to comply with any such requisition shall be guilty of an offence against this Act.

19. (1) Any person who contravenes or fails to comply with any of the provisions of this Act shall be guilty of an offence against this Act. ^{Offences}

(2) Every person guilty of an offence against this Act shall be liable to a penalty not exceeding one hundred pounds or to imprisonment for a term not exceeding six months.

(3) All offences against this Act may be prosecuted in a summary manner under "*The Justices Acts, 1886 to 1960*," upon the complaint of any person thereunto authorised in writing by the Minister, or of an inspector.

20. (1) Any amount unpaid of swine sales stamp duty payable under this Act shall be a debt due to the Crown, and may be sued for in any court of competent jurisdiction or recovered in a summary way under "*The Justices Acts, 1886 to 1960*," by complaint by any person authorised by the Minister or by any inspector. ^{Recovery of duty}

On convicting a person for an offence against this Act the court imposing the conviction, in addition to imposing a penalty for the offence, may order him to pay any amount which, from the evidence given during the proceedings, such court is satisfied should have been, but has not been, paid by him by way of swine sales stamp duty under this Act.

(2) In any proceedings for an offence against this Act, and in any proceedings for the recovery of any amount unpaid of swine sales stamp duty payable under this Act a certificate purporting to be signed by the Minister stating that the amount of swine sales stamp duty stated therein is due and payable under this Act and remains unpaid shall be *prima facie* evidence of the matters stated in such certificate, and in the absence of evidence in rebuttal, shall be conclusive such evidence.

Saving of
"The Stamp
Acts, 1894 to
1961"

21. This Act shall be read, construed and applied as being in addition to and not in derogation of "*The Stamp Acts, 1894 to 1961,*" and no provision of such lastmentioned Acts shall be, or be deemed to be, repealed or otherwise affected by this Act.

Regulations

22. (1) The Governor in Council may from time to time make such regulations, not inconsistent with this Act, prescribing all matters and things which are necessary or convenient for carrying out or giving effect to this Act, and without limiting the generality of the foregoing provisions of this subsection, in particular—

- (a) prescribing, providing for, regulating and controlling the seizure and destruction of any pig which is suffering from or is suspected of suffering from disease or exotic disease ;
- (b) prescribing, providing for, regulating and controlling the manner of making and dealing with and the verification of applications for compensation and any other matters affecting or relating to compensation ;
- (c) prescribing all matters and things necessary or convenient to be prescribed with respect to the fund and the administration thereof ;
- (d) prescribing, providing for, regulating and controlling the valuing of pigs, the appointment of persons for that purpose, their qualifications, duties and emoluments, the procedure for determining the market value of any pig in default of agreement as to such value between the owner and the person by whose order or under whose authority the pig was destroyed, and the costs, and maximum amounts thereof which may be awarded in respect of any such determination;

- (e) prescribing, regulating and controlling the procedure for diagnosis of disease or exotic disease, removal and despatch of specimens for diagnostic purposes, and steps to be taken to prevent the spread of disease or exotic disease ;
- (f) prescribing forms under this Act and the respective purposes for which such forms or forms to the like effect shall be used ;
- (g) prescribing the amount of any penalty for any offence against any regulation, provided that any such penalty shall not exceed one hundred pounds ;
- (h) generally all matters and things as are by this Act authorised or permitted to be prescribed.

(2) Regulations may be made under this Act at any time after the passing hereof.

(3) The power to make regulations with respect to any matter or thing shall include power to make regulations prohibiting that matter or thing either generally or to meet particular cases.

23. (1) Every Proclamation, Order in Council and regulation made under this Act shall—

Publication
of
Proclama-
tions, &c.

- (i) be published in the *Gazette* ;
- (ii) upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein ;
- (iii) take effect from the date of such publication unless, in the case of any such Order in Council or regulation, a later date is specified in that or in any other Order in Council or regulation for its commencement when in such event it shall take effect from that later date ; and

(iv) be laid before the Legislative Assembly within fourteen sitting days after such publication if the Legislative Assembly is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution of which notice has been given at any time within fourteen sitting days after any such Proclamation, Order in Council or regulation has been laid before it disallowing such Proclamation, Order in Council or regulation or part thereof, that Proclamation, Order in Council or regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done in the meantime or to the making of a further Proclamation, Order in Council or regulation.
