

PIG INDUSTRY COMPENSATION.

6° AND 7° GEO. VI., No. XXXVIII.

No. 38 of 1942.

AN ACT to provide for the establishment of a fund for the payment of compensation to the owners of pigs and carcasses of pigs in certain cases and for purposes connected therewith.

[Assented to 23rd December, 1942.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Pig Industry Compensation Act, 1942*, and shall come into operation on a date to be fixed by proclamation. Short title and commencement.

2. This Act is divided into Parts, as follows:—

Arrangement.

PART I.—PRELIMINARY.

PART II.—PIG COMPENSATION.

PART III.—PIG COMPENSATION FUND AND STAMP DUTIES.

PART IV.—MISCELLANEOUS.

Interpretation.

3. In this Act, unless the context otherwise indicates or requires—

“Approved person” means a person approved by the Minister for the purposes of this Act;

“Carcass” means the carcass of a pig;

“Chief Veterinary Surgeon” means the Chief Veterinary Surgeon of the Department of Agriculture;

“Disease” means tuberculosis or swine fever or swine erysipelas or para-typhoid, or such other diseases as the Governor may from time to time by proclamation declare to be diseases within the meaning of this Act;

“Fund” means the Pig Industry 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 dying or ordered to be destroyed and as if the pig were free from disease;

“Meat Inspector” means an inspector of meat appointed under the Health Act, 1911-1937, or any Commonwealth Act;

“Minister” means the Minister for Agriculture;

“Owner” includes the authorised agent of the owner;

“Pig” means any boar, sow, barrow, or sucker;

“Pig duty stamps” means stamps issued pursuant to this Act by the Commissioner of Stamps;

“Prescribed” means prescribed by this Act or by the regulations;

“Regulations” means regulations made under this Act.

Governor may vary diseases to which Act applies.

4. The Governor may from time to time by proclamation declare any disease of pigs to be a disease within the meaning of this Act, and may from time to time by proclamation declare that the provisions of this Act shall cease to apply to any disease specified in such proclamation.

Administration of Act.

5. Subject to the Minister this Act shall be administered by the Under Secretary for Agriculture or his deputy.

PART II.—PIG COMPENSATION.

6. Subject to this Act, compensation shall be payable:—

Compensation payable to owners of pigs.

- (a) to the owner of any pig destroyed by or by order of a meat inspector or other authorised person pursuant to any Act or any regulation or proclamation under any Act because the pig is suffering from or is suspected of suffering from disease;
- (b) to the owner of any pig destroyed with the consent of the Chief Veterinary Surgeon or an approved person because the pig is suffering from or suspected of suffering from disease;
- (c) to the owner of any pig which is proved to the satisfaction of the Chief Veterinary Surgeon or an approved person to have died of swine fever;
- (d) to the owner of any carcass or portion of a carcass which is pursuant to any Act or any regulation or proclamation under any Act condemned as unfit for human consumption because of disease, by a meat inspector or other authorised person.

7. (1) Subject to this Act the amount of compensation payable in respect of a pig destroyed because the pig is suffering from or suspected of suffering from disease, shall be—

Amount of compensation.

- (a) if after destruction the pig is found to be free from disease, the market value (subject to the prescribed deductions) of the pig;
- (b) if after destruction the pig is found to be diseased, three-quarters of the market value (subject to the prescribed deductions) of the pig.

(2) Subject to this Act, the amount of compensation payable in respect of a pig which is proved to the satisfaction of the Chief Veterinary Surgeon or an approved person to have died of swine fever shall be three-quarters of the market value (subject to the prescribed deductions) of the pig.

Provided that in no case shall the market value of any pig for the purposes of this Act be deemed to be more than ten pounds.

(3) Subject to this Act, the amount of compensation payable in respect of any diseased carcass or portion of a diseased carcass condemned as unfit for human consumption because of disease shall be in accordance with the prescribed scale.

Determina-
tion of value
of pig, etc.,
destroyed as
diseased.

8. (1) The value of any pig so destroyed or of any carcass or portion thereof so condemned shall be determined by 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) The value of any pig which has been proved to the satisfaction of the Chief Veterinary Surgeon or approved person to have died of swine fever shall be determined by the Chief Veterinary Surgeon or an approved person.

(3) If the owner of any pig destroyed or dying of swine fever, or the owner of any carcass or portion thereof condemned, is aggrieved at the value so placed upon such pig or carcass or portion thereof, such owner may appeal against such valuation to the Minister, who may appoint some competent and impartial person to determine the value of such pig or carcass or portion thereof, and the determination of such person shall be final and conclusive.

(4) The residual value of any pig so destroyed or dying or of any carcass or portion thereof so condemned, shall be determined in the like manner.

(5) The amount of any such residual value shall in every case be deducted from the amount payable as compensation under this Act.

Application
for compen-
sation.

9. (1) No compensation under this Act shall be payable unless the owner of the pig so destroyed or dying, or of the carcass or portion thereof so condemned, makes application for compensation in the manner and containing the particulars prescribed and verified as prescribed.

(2) The owner shall forward with the application a certificate (containing the prescribed particulars) to be furnished by the person who destroyed or ordered or authorised the destruction of the pig, or the person to whose satisfaction it is proved that the pig died of swine fever, or the meat inspector or other person who condemned the carcass or any portion thereof.

(3) No compensation under this Act shall be payable unless the application for compensation is made by the owner within twenty-one days after the destruction of the pig, or the death of the pig of swine fever, or the condemnation of the carcass or portion thereof.

(4) No compensation under this Act shall be payable—

(a) if the head only of any carcass is condemned as unfit for human consumption because of disease; or

(b) unless the Under Secretary for Agriculture or his deputy is satisfied—

(i) that all stamp duty (if any) payable under this Act by the owner claiming compensation in respect of all pigs of the said owner and in respect of all carcasses of pigs of the said owner has been duly paid in accordance with the provisions of section fifteen of this Act;

(ii) that the owner claiming compensation has complied with this Act and the regulations with respect to applications and claims for compensation; or

(c) in respect of a pig introduced into Western Australia which dies of swine fever or is destroyed because such pig is suffering from or suspected to be suffering from disease, if such pig dies or is ordered to be destroyed within one month after its introduction, unless the Chief Veterinary Surgeon is satisfied that the pig became diseased after being introduced, or unless, in the case of a pig ordered to be destroyed, it is found on *post mortem* examination to be free from disease.

(5) No compensation, or only such part of the compensation otherwise payable to the owner as the Under Secretary for Agriculture, or his deputy thinks reasonable, shall be payable under this Act to any owner if within the period of two years such owner has been convicted of an offence against this Act or the regulations.

(6) No compensation shall be payable to the owner of any pig dying of swine fever or 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 death or destruction been fed on unboiled garbage or unboiled household scraps unless, in the case of a pig destroyed, it is found on *post mortem* examination to be free from swine fever.

Compensation payable in certain cases in respect of pigs which were destroyed.

10. (1) Notwithstanding anything contained in this Act, compensation under this Act shall be payable—

(a) to the owner of any pig which was destroyed at any time after the twenty-seventh day of October, one thousand nine hundred and forty-two, and before the commencement of this Act, because such pig was suffering from or suspected to be suffering from swine fever, and the destruction was carried out under an order of the Minister or on request made by the Chief Veterinary Surgeon or an inspector under the Stock Diseases Act, 1895;

(b) to the owner of any pig which is proved to the satisfaction of the Chief Veterinary Surgeon or an approved person to have died of swine fever after the twenty-seventh day of October, one thousand nine hundred and forty-two, and before the commencement of this Act.

The compensation shall be payable as if the pig had been destroyed after the coming into operation of this Act.

(2) Except under circumstances which the Minister certifies to be exceptional, no compensation shall be payable in pursuance of subsection (1) of this section unless an application is made by the owner in the prescribed manner within two months after the commencement of this Act.

(3) The value of any pig in respect of which compensation is claimed under this section shall be determined by the Chief Veterinary Surgeon or an approved person: Provided that, if the owner of a pig in respect of which compensation is claimed under this section is aggrieved at the value placed upon such pig by the Chief Veterinary Surgeon or approved person, he may appeal to the Minister to determine the value of such pig, whose determination shall be final and conclusive.

(4) The Pig Compensation Fund shall be applied to the payment of claims for compensation under this section in the same manner as it may be applied to the payment of claims for compensation in respect of pigs destroyed after the commencement of this Act.

(5) Save as otherwise provided in this section, the provisions of this Act shall, so far as applicable and with such alterations, modifications, and substitutions as are necessary, extend and apply to compensation and the payment thereof and to claims for compensation under this section in all respects as if the pig had been destroyed after the commencement of this Act.

11. Notwithstanding anything in any Act, when a pig is affected only with a localised form of disease the Chief Veterinary Surgeon or an approved person may, instead of such pig being destroyed in accordance with the requirements of any Act or the regulations thereunder, in his discretion require the owner to retain such pig under such conditions as are prescribed.

If disease is in localised form.

12. Any person—

(a) who buys or sells or who attempts to buy or sell any pig knowing or having reasonable cause to suspect such pig to be diseased and with the intention (in the opinion of the court before which he is charged) of making 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 or any portion thereof knowing or having reasonable cause to suspect the carcass or portion thereof to be diseased 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 the carcass or any portion thereof,

Person trafficking in diseased pigs or carcasses with a view to compensation.

shall be guilty of an offence against this Act and liable to a penalty of not more than twenty-five pounds for every such pig, or (as the case may be), for every such carcass or portion thereof.

PART III.—PIG COMPENSATION FUND AND STAMP DUTIES.

13. (1) There shall be established and kept in the Treasury an account to be called the "Pig Industry Compensation Fund:"

Establishment of Pig Industry Compensation Fund.

(2) To the credit of the Fund there shall be paid—

- (a) all sums of money received by or for the Commissioner of Stamps in respect of pig stamp duty on statements under this Act; and
- (b) all penalties recovered under this Act.

(3) The Fund shall, subject to this Act, be applied to the payment pursuant to this Act of claims for compensation.

(4) Any sum which the Treasurer of Western Australia 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 sum payable under this Act) shall be paid out of the Consolidated Revenue, which is hereby, to the necessary extent, appropriated accordingly.

(5) Any sum paid out of the Consolidated Revenue under the last preceding subsection shall be deemed to be an advance to the Fund and shall remain a charge thereon, to be recouped when funds are available.

Statements to be made out on sale of pigs, and stamps affixed.

14. (1) Every owner of pigs or the carcasses of pigs or the agent of any 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—

- (a) write out or cause to be written out a statement setting forth the number of pigs or the carcasses of pigs so sold, the amount of the purchase-money in respect of each pig or carcass, as the case may be, and the date of the sale thereof;
- (b) affix to the said statement pig duty stamps to the amount of the duty payable under this Act, and cancel the stamps; and
- (c) give or by registered letter transmit the said statement to the purchaser within seven days of the sale:

Provided that, where a number of pigs or carcasses of pigs of similar grade are sold in one lot, it shall not be necessary to set forth in the said statement the amount of purchase-money payable in respect of each pig or

carcass, as the case may be, but the said statement shall set forth the amount of the purchase-money payable in respect of such lot.

(2) Without affecting his liability to pay the amount of any unpaid duty, every owner or agent who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding twenty pounds.

(3) If—

- (a) any pig is sold and pig duty stamps are affixed, as provided by this section, to a statement given upon the sale of the pig; and
- (b) within fourteen days of the sale the pig is slaughtered; and
- (c) the statement given pursuant to this section in respect of any sale of the carcass includes particulars of the prior sale of the pig,

it shall not be necessary to affix any pig duty stamps to the statement given upon any such sale of the carcass, and any such sale of the carcass shall be free from the payment of stamp duty.

15. (1) There shall be payable in respect of every sale of any pig or carcass the stamp duties provided by this section by means of stamps affixed to the statement required under section fourteen of this Act. Duty on sales
of pigs.

(2) For every pound or part of a pound exceeding ten shillings—

- (a) of the amount of the purchase money in respect of one pig or one carcass sold singly; or
- (b) of the total amount of the purchase-money in respect of any number of pigs or carcasses, as the case may be, sold in one lot,

there shall be payable a stamp duty of such amount as the Governor may by proclamation prescribe:

Provided that such amount shall not exceed threepence: Provided further, that the stamp duty in respect of the amount of the purchase-money of any one pig, or any one carcass, as the case may be, whether sold singly or as part of a lot, shall not exceed two shillings and sixpence.

(3) The duty hereby imposed shall be in addition to any other duty required to be paid under the Stamp Act.

Pig duty stamps issued by Commissioner of Stamps.

16. (1) Stamp duties under this Act on the said statements shall be denoted by adhesive stamps (referred to in this Act as "pig duty stamps") issued by the Commissioner of Stamps.

(2) No statement required to be stamped under this Act shall be deemed or taken to be duly or properly stamped with an adhesive stamp to denote the payment of any duty under this Act, unless the words "pig duty stamp" are printed on and form part of the stamp.

(3) Without prejudice to any other method of recovery, any unpaid duty under this Act may be recovered by the Commissioner of Stamps in any court of competent jurisdiction.

(4) Subject to this Act the provisions of the Stamp Act, 1921-1941, and any regulations thereunder, shall, with such alterations, modifications, and substitutions as are necessary extend and apply with respect to pig duty stamps.

(5) Without affecting the generality of the last preceding subsection, every person who practises or is concerned in any fraudulent act, contrivance, or device not specially provided for by law, with intent to defraud His Majesty of any stamp duty under this Act, shall be guilty of a misdemeanour and liable to imprisonment for any term not exceeding twelve months.

PART IV.—MISCELLANEOUS.

Penalty on persons making charges, etc., for insurance purposes on sale of pigs.

17. If on the sale of any pig (whether sold singly or as part of a lot) to any person, any such person or his agent—

(a) makes any charge to the vendor; or

(b) deducts any amount from the purchase-money payable in respect of the 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, the said person or agent shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds.

18. Any condition, express 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—

Conditions inconsistent herewith in contracts to be inoperative.

(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 as on, from, and after the commencement of this Act.

19. Every person who is guilty of any contravention of or failure to comply with any of the provisions of this Act 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 to a penalty of not more than twenty pounds.

Penalty in cases not provided for.

20. The costs of the administration of this Act shall be paid out of the Fund.

Costs of administration of Act.

21. The Governor may make regulations for or with respect to—

Regulations.

(a) the manner of making and dealing with and the verification of applications for compensation;

(b) prescribing, subject to this Act, the form of any certificate to be issued by the Chief Veterinary Surgeon or approved person or meat inspector or other person in respect of the destruction of any diseased pigs, or any pigs suspected of suffering from disease, or dying of swine fever or the condemnation of any diseased carcass or portion of a carcass, and the particulars to be set forth in any such certificate;

(c) scales of compensation payable in respect of diseased carcasses or portions thereof;

(d) the retention under this Act of pigs by the owner thereof, when such pigs are affected with a localised form of disease only and the conditions of such retention;

(e) safeguarding the Fund and the Consolidated Revenue from claims for compensation in respect of pigs or carcasses of pigs or portions thereof in cases where the pigs are diseased

or suspected of being diseased when introduced or being introduced into Western Australia, whether by land or sea; and generally preventing fraudulent or dishonest claims for compensation;

- (f) all matters and things necessary or convenient to be prescribed with respect to the Fund and the administration thereof;
- (g) forms for the purposes of this Act and the regulations;
- (h) prescribing penalties (of not more than twenty pounds in any case) for any contravention of or failure to comply with the regulations; and
- (i) prohibiting the feeding to pigs of foods which in the opinion of the Chief Veterinary Surgeon are likely to be a source of infection of disease to pigs
- (j) generally, all matters and things which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to or carrying out this Act, and guarding against evasions and violations thereof.