

1963.]

*Beef Cattle Industry.  
Compensation.*

[No. 78.]

## BEEF CATTLE INDUSTRY COMPENSATION.

12° Elizabeth II., No. LXXVIII.

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No. 78 of 1963.

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**AN ACT to make provision for the Testing of Beef Cattle and the Establishment of a Fund for the Payment of Compensation to the owners of Beef Cattle and of Carcasses of Cattle in certain cases; and for incidental and other purposes.**

*[Assented to 19th December, 1963.]*

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

1. This Act may be cited as the *Beef Cattle Industry Compensation Act, 1963.* Short title.

2. This Act shall come into operation on a day to be fixed by proclamation. Commence-  
ment.

Arrangement.

## 3. The arrangement of this Act is as follows:—

PART I.—PRELIMINARY, ss. 4-8.

PART II.—INSPECTION AND TESTING OF BEEF  
CATTLE, ss. 9-12.PART III.—COMPENSATION FOR BEEF CATTLE,  
ss. 13-18.PART IV.—BEEF CATTLE COMPENSATION FUND  
AND STAMP DUTY, ss. 19-27.

PART V.—MISCELLANEOUS, ss 28-33.

## PART I.—PRELIMINARY.

Construction.

4. This Act shall be read and construed so as not to exceed the legislative power of the State, the intention being that where any enactment in this Act would, but for this section, be construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

Interpretation.

5. In this Act unless the context requires otherwise—

“animal” means a head of cattle;

“beef cattle” means any bull, cow, ox, steer, heifer or calf; but except where otherwise provided by this Act, does not include any of those animals that are dairy cattle within the meaning of the Dairy Cattle Industry Compensation Act, 1960;

“carcass” means the carcass of any animal;

“Chief Inspector” means the person for the time being holding the office of Chief Inspector of Stock under the Stock Diseases Act, 1895;

“Commissioner” means the person for the time being holding the office of Commissioner of Stamps under the Stamp Act, 1921;

“Department” means the Government Department of the State known as the Department of Agriculture;

“Director” means the person for the time being holding the office of Director of Agriculture in the Department;

“disease” means, in relation to beef cattle, tuberculosis, actinomycosis, and any other disease of cattle that the Governor, by proclamation, declares to be a disease for the purposes of this Act; and “diseased” has a corresponding meaning;

“Fund” means the Beef Cattle Industry Compensation Fund established under this Act;

“inspector” means an inspector of stock appointed under the Stock Diseases Act, 1895;

“market value” in relation to a carcass means the value of the carcass calculated as upon a sale with delivery at the place where the carcass is when it is condemned as unfit for human consumption, and as if it were free from disease;

“owner” includes the authorised agent of the owner;

“veterinary surgeon” means a person who is a registered veterinary surgeon under the provisions of the Veterinary Surgeons Act, 1960.

6. Subject to the direction and control of the Minister, the Department shall administer this Act, except Part IV thereof.

Administra-  
tion.

7. (1) This Act applies in that part of the State known as the South-West Division as constituted and defined by section twenty-eight of the Land Act, 1933, and in such other parts of the State as the Governor, by proclamation, declares and is hereby authorised to declare from time to time to be areas in which the provisions of this Act shall apply.

Application  
of Act.

(2) The Governor may at any time, on the recommendation of the Minister, by proclamation declare any disease from which cattle are suffering or are liable to suffer to be a disease for the purposes of this Act.

(3) Any proclamation made under this section may be cancelled or from time to time varied, or an error in a proclamation may be rectified, by a subsequent proclamation.

Costs of  
administra-  
tion.

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

## PART II.—INSPECTION AND TESTING OF BEEF CATTLE.

Beef cattle  
to be  
inspected.

9. The owner of any beef cattle shall, when and as often as he is requested by the Chief Inspector to do so, submit the beef cattle to inspection by the Chief Inspector, an inspector, a veterinary officer of the Department, or a veterinary surgeon authorised in writing for the purpose by the Chief Inspector.

Penalty: Fifty pounds.

Beef cattle  
to be tested  
for disease.

10. (1) The Chief Inspector shall apply or cause to be applied such tests, bacteriological and biochemical investigations or examinations, including a tuberculin test, to each animal at such intervals as the Chief Inspector considers necessary for the purpose of preventing, controlling or effecting the elimination of disease from beef cattle.

(2) Every person who carries out any test, investigation or examination referred to in this section shall as soon as practicable after so doing complete and lodge with the Department a form as prescribed showing the result of the test, investigation or examination and containing therein such other particulars as are prescribed.

11. (1) If after the application to any animal of a test, investigation or examination referred to in section ten of this Act the animal is found to be suffering from disease, or is suspected to be so suffering, the person who carried out that test, investigation or examination shall mark the animal for the purposes of identification in such manner as the Chief Inspector directs and is hereby authorised to direct.

Diseased cattle to be marked for identification.

(2) The Chief Inspector or an inspector may order that any diseased beef cattle, or any beef cattle suspected to be suffering from disease, shall be destroyed.

Power to order destruction of diseased cattle.

12. Notwithstanding the provisions of any Act, where beef cattle are affected only with a localised form of disease, an inspector, instead of forthwith destroying the cattle, or ordering them to be destroyed, in accordance with the requirements of any Act or the regulations made thereunder, may require the owner to retain the cattle under such conditions as he thinks fit.

Disease of cattle in localised form.

### PART III.—COMPENSATION FOR BEEF CATTLE.

13. (1) Subject to the provisions of this Act, compensation is payable under this Act—

Compensation payable to owner of cattle destroyed.

- (a) to the owner of any beef cattle destroyed by or by order of the Chief Inspector or an inspector pursuant to this Act, because the cattle are suffering from disease or are suspected to be so suffering; or
- (b) to the owner of any beef cattle destroyed with the consent of the Chief Inspector because the cattle are suffering from disease or are suspected to be so suffering; or
- (c) to the owner of any carcass, or portion of a carcass (whether the animal was a head of beef cattle or of dairy cattle), that in pursuance of any Act is at an abattoirs and condemned because of disease as unfit

for human consumption, by the Chief Inspector, an inspector, or any other person authorised by that Act to so condemn the carcass.

(2) Where beef cattle are to be destroyed by order of the Chief Inspector or an inspector or with the consent of the Chief Inspector as provided in subsection (1) of this section, the Chief Inspector, or as the case may be, the inspector, may by notice in writing given to the owner of the cattle require the cattle to be destroyed at some abattoirs specified in the notice.

Amount of  
compensa-  
tion.

14. (1) The amount of compensation payable under this Act in respect of beef cattle destroyed because the cattle are suffering from disease or are suspected to be so suffering shall be the value of the cattle so destroyed as determined pursuant to the provisions of subsection (1) of section fifteen of this Act.

(2) The amount of compensation payable under this Act in respect of a carcass condemned as unfit for human consumption because of disease shall be the market value of that carcass.

(3) Notwithstanding anything contained in this Act, no amount of compensation in excess of an amount recommended at least once annually by the Minister and approved by the Governor shall be payable in respect of the destruction of any animal destroyed or of the condemnation of any carcass condemned as unfit for human consumption, pursuant to this Act.

Determina-  
tion of  
value of  
cattle.

15. (1) The value of any beef cattle destroyed, pursuant to the provisions of this Act, shall be determined by agreement between the owner of the cattle and the Chief Inspector or inspector by whom the cattle were destroyed; and in default of agreement some competent and impartial person nominated for the purpose by the Minister shall determine the value.

(2) The determination of the person nominated by the Minister pursuant to this section is final and conclusive.

(3) The residual value of beef cattle destroyed under the provisions of this Act shall be determined in like manner to that provided under subsection (1) of this section.

(4) The proceeds of the disposal of any carcass to which this Act applies shall be paid into the Fund.

16. (1) Compensation under this Act is not payable unless the owner of the beef cattle destroyed, or of the carcass condemned, pursuant to the provisions of this Act, makes application for compensation to the Chief Inspector in the manner prescribed and the application contains the particulars prescribed and is verified as prescribed.

*Application  
for com-  
pensation.*

(2) Compensation under this Act is not payable unless the application for compensation is made by the owner within thirty days after the destruction of the animal, or as the case may be, the condemnation of the carcass, in respect of which the application is made, but where such application is made after the expiration of that period, the Minister may authorise the payment of the whole or portion of the compensation if he is satisfied that reasonable grounds existed for the delay in making the application.

17. Compensation under this Act is not payable—

*Circum-  
stances  
in which  
compensa-  
tion not  
payable.*

- (a) where the head only of a carcass is condemned as unfit for human consumption because of disease; or
- (b) where the owner of any beef cattle infected with disease or suspected by the owner of being so infected has failed to give the notice required to be given by section eleven of the Stock Diseases Act, 1895; or

- (c) unless the Chief Inspector is satisfied—
  - (i) that all stamp duty (if any) payable under this Act in respect of all cattle sold by the owner who is claiming compensation has been duly paid in accordance with the provisions of this Act; and
  - (ii) that the owner claiming compensation has complied with this Act with respect to applications and claims for compensation; or
- (d) in respect of beef cattle imported or introduced into the State, which are destroyed within ninety days of their arrival in the State because they are suffering from disease or are suspected to be so suffering, unless the Chief Inspector is satisfied that the animals became diseased after their arrival in the State or unless the cattle after being destroyed are found to be free from disease; or
- (e) if the person making the claim for compensation is convicted of an offence under section eighteen or twenty-six of this Act; or
- (f) in respect of cattle destroyed by or under the Milk Act, 1946, or the Dairy Cattle Industry Compensation Act, 1960, or by or under any other Act, except this Act, and in respect of which provision is made for compensating the owner for loss or damage resulting from the destruction; or
- (g) in respect of diseased beef cattle destroyed after any test, investigation or examination, unless that test, investigation or examination was authorised by the Chief Inspector; or
- (h) in respect of a carcass or portion of a carcass unless the person making the claim produces a certificate in the prescribed form furnished by the inspector or other person who condemned the carcass.



## 18. A person who—

- (a) buys or sells or attempts to buy or sell cattle (whether beef cattle or dairy cattle) knowing or having reasonable cause to suspect the cattle to be diseased, and with the intention of making a claim or enabling any other person to make a claim for compensation under this Act in respect of the destruction of the cattle or the condemnation of any carcass of any of the cattle; or
- (b) buys or sells or attempts to buy or sell any carcass, knowing or having reasonable cause to suspect the carcass to be diseased, and with the intention of making a claim or enabling any other person to make a claim for compensation under this Act in respect of the condemnation of the carcass,

Buying or  
selling  
diseased  
cattle or  
carcass in  
order to  
claim com-  
pensation.

commits an offence.

Penalty: Twenty-five pounds in respect of each animal or each carcass so bought or so sold or in respect of which the attempt is made, as the case may be.

PART IV.—BEEF CATTLE COMPENSATION FUND AND  
STAMP DUTY.

19. (1) For the purposes of administering this Act and paying compensation in accordance with the provisions of this Act, there shall be established and kept in the Treasury an account to be called the “Beef Cattle Industry Compensation Fund”.

Establish-  
ment of  
Beef Cattle  
Industry  
Compensa-  
tion Fund.

(2) The Fund shall be controlled by the Director and may be operated upon for the purposes in such manner as the Treasurer approves from time to time and is hereby authorised to approve.

(3) The Director shall keep such records relating to operations on the Fund in such manner as the Treasurer approves and is hereby authorised to approve.

Application  
of Fund.

20. (1) There shall be paid to the credit of the Fund—

- (a) all sums of money received by or for the Commissioner in respect of stamp duty on statements under this Act which sums the Treasurer is authorised to pay to the Fund;
- (b) all moneys received from the Treasurer under the provisions of section twenty-one of this Act;
- (c) all moneys received for the residual value of beef cattle destroyed or of carcasses condemned pursuant to this Act, which moneys by force of this Act are appropriated to and form part of the Fund;
- (d) the proceeds of the disposal of any carcass to which this Act applies;
- (e) moneys advanced to the Fund under the authority of subsection (3) of this section;
- (f) the amount of all penalties recovered under this Act in respect of offences against this Act; and
- (g) any other payments made to the Director under this Act for payment to the Fund.

(2) Subject to this Act, the Fund shall be applied for the purposes of administering this Act and to the payment pursuant to this Act of claims for compensation.

(3) (a) Where the Treasurer is of opinion that the moneys standing to the credit of the Fund are for the time being insufficient for the purposes of this Act, the Treasurer with the approval of the Governor, who is hereby authorised to grant the approval, may from time to time advance to the Fund from the Public Account moneys sufficient for the time being to make up the deficiency.

(b) The amount of each such advance shall be subsequently repaid to the Treasurer from the Fund by the Director when moneys are available to the Fund to make the repayment, and each amount when so repaid shall be paid by the Treasurer into the Public Account.

(c) Moneys so advanced by the Treasurer are so long as they remain unpaid a charge on the Fund.

(4) Any moneys standing to the credit of the Fund may, until required for the purposes of this Act, be temporarily invested at the request of the Director by the Treasurer in any securities approved by the Treasurer, and all interest derived from the investment shall be paid to the credit of the Fund.

21. The Treasurer shall contribute to the Fund, from moneys appropriated by Parliament for the purpose, an amount equal to the amount of stamp duty received by or for the Commissioner in respect of stamp duty on statements under this Act.

Contribution  
to Fund by  
Treasurer.

22. There shall be charged for the use of Her Majesty upon any instrument specified under the heading, "STATEMENTS ON SALES OF CATTLE" in the Second Schedule to the Stamp Act, 1921, the duty specified under that heading.

Amount of  
stamp duty.

23. (1) Every owner of beef cattle or of dairy cattle, or the carcasses of any cattle, or the agent of any such owner except where that agent, as the holder of a valid and current permit issued under subsection (3) of this section, is exempted from complying with the requirements of this subsection, shall upon the sale of the cattle or carcasses of cattle, 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—

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

- (a) write out or cause to be written out a statement setting forth the number of cattle or the carcasses of cattle so sold, the amount of purchase money in respect of each animal or carcass, as the case may be, and the date of the sale;

- (b) affix to the statement cattle sales duty stamps to the amount of the duty payable under this Act, and cancel the stamps; and
- (c) send the statement to the purchaser within seven days of the sale.

(2) Where a number of head of cattle or a number of carcasses of cattle, are sold in one lot, it shall not be necessary to set forth in the statement referred to in subsection (1) of this section the amount of purchase money payable in respect of each animal or each carcass, as the case may be, but the statement shall set forth the amount of the purchase money in respect of the one lot.

(3) (a) An agent, referred to in subsection (1) of this section, or a person, firm, or company whose business is or includes acting as selling agents of cattle or carcasses of cattle or both, on behalf of various owners, may apply to the Minister for a permit exempting him or them from complying with the requirements of subsection (1) of this section, but authorising him or them instead, while the permit is effective, to lodge with the Minister returns of purchase money received from sales of cattle or of carcasses of cattle or both, sold by the applicant as agent during any periods of any duration fixed by the Minister, and to pay to the Minister the amount of duty payable under section twenty-two of this Act in respect of the purchase money included in each return.

(b) If it appears to the Minister—

- (i) that the application is made in good faith; and
- (ii) that if the application is granted economy in the administration of this Act will result,

the Minister may issue a permit in writing.

(c) The Minister may include in the permit such conditions as, in the particular circumstances of the case, the Minister thinks fit to impose, including without affecting the generality of the discretionary power hereby conferred, conditions—

(i) as to the manner, form, and time, of compiling and lodging returns, and paying the duty; and

(ii) limiting the period to which each return must relate.

(d) The Minister may, by notice in writing served on the holder of a permit so issued—

(i) from time to time alter any of the conditions contained in the permit; or

(ii) cancel the permit,

without being required to assign any reason for doing so.

(e) The Minister shall cause the Commissioner to be notified of the issue of any permit, of the conditions of the permit, any alteration of the conditions, and any cancellations of permits.

(f) Production of a document which purports to be a copy of a permit so issued, or any alteration of the conditions, or any cancellation, of a permit so issued, if purporting to be certified by the Minister to be a copy of the original of which it purports to be a copy, has the same probative value as, and is *prima facie* evidence of the matters contained in, the original.

(g) Where an agent who is the holder of a valid and current permit so issued, receives purchase money for the sale on behalf of an owner of cattle or carcasses or both, the agent shall apply so much of the purchase money as equals the amount of duty payable under this Act in respect of the purchase money in payment of the duty to the Minister whose acknowledgment of receipt of the payment of the amount is a discharge to the agent of liability to pay the amount to the principal or any

person claiming through the principal, and is a discharge to the owner of liability to pay that amount of duty.

(h) Any amount that an agent is required by paragraph (g) of this subsection to pay to the Minister, is, until so paid, a debt owing by the agent to the Minister and may, notwithstanding paragraph (j) of this subsection, be recovered from the agent in a court of competent jurisdiction, at the suit of the Commissioner.

(i) A person who, being an agent referred to in paragraph (g) of this subsection, does not comply with the requirements of that paragraph commits an offence.

(j) Until such time as any amount of duty for which an owner is liable under this Act has been paid either by the owner or by his agent, the amount is a debt owing by the owner to the Minister and may, without prejudice to paragraph (h) of this subsection, be recovered in a court of competent jurisdiction, at the suit of the Commissioner.

(4) 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 subsection (1) of this section, or as the case may be, of any condition imposed under subsection (3) of this section, commits an offence against this Act and is liable on conviction to a penalty not exceeding twenty pounds, and shall in the case of an agent holding a permit be punishable notwithstanding any subsequent alteration of the conditions of, or cancellation of, the permit, and notwithstanding section eleven of the Criminal Code.

(5) A complaint of an offence under this Act may be made within twelve months of the commission of the offence.

(6) If—

(a) any head of cattle is sold and cattle sales duty stamps are affixed, as provided by subsection (1) of this section, to a state-

ment given upon the sale of the animal or, as the case may be, particulars of the sale of the animal are included in a return compiled pursuant to, and in accordance with, a valid and current permit issued under subsection (3) of this section; and

- (b) within fourteen days of the sale the animal is slaughtered; and
- (c) the statement given, or, as the case may be, the return so compiled, pursuant to this section in respect of any sale of the carcass includes particulars of the prior sale of the animal,

it shall not be necessary to affix any cattle sales 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 in respect of the purchase money shown as having been received for the carcass in the statement, or, as the case may be, in the return.

(7) Where the holder of a valid and current permit issued under subsection (3) of this section compiles returns of any sales of cattle, or carcasses of cattle, or both, he shall, instead of complying with the requirements of paragraph (c) of subsection (1) of this section, send to the purchaser within seven days of the sale, notification in writing of particulars of the sale and that as the holder of the permit he has included particulars of the sale in a return compiled pursuant to the permit.

24. (1) The stamp duties on the statements referred to in section twenty-three of this Act shall be denoted by adhesive stamps (called in this Part, "cattle sales duty stamps") issued by the Commissioner.

Cattle sales  
duty stamps  
to be issued.

(2) A statement required under this Act to be stamped shall not be regarded 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, "Cattle Sales Stamp Duty" are printed on and form part of the stamp.

Recovery of  
stamp duty.

25. Without prejudice to any other method of recovery, the amount of any unpaid stamp duty payable under this Act may be recovered by action by the Commissioner in any court of competent jurisdiction.

Fraudulent  
act an  
offence.

26. (1) Without affecting the operation of section twenty-seven of this Act, every person who practises or is concerned in any fraudulent act, contrivance or device with intent to defraud Her Majesty of any stamp duty payable under this Act commits an offence.

Penalty: One hundred pounds or imprisonment for six months, or both the fine and the imprisonment.

(2) All offences under this section shall be tried and determined by a stipendiary magistrate.

Application  
of Stamp  
Act, 1921.

27. Subject to this Act, the provisions of the Stamp Act, 1921, and any regulations made under that Act, shall with such adaptations as are necessary extend and apply with respect to cattle sales duty stamps.

#### PART V.—MISCELLANEOUS.

Making  
charges for  
insurance,  
etc. on sale  
of cattle an  
offence.

28. If on the sale of any beef cattle or dairy cattle (whether sold singly or as part of a lot) to any person, that 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 an animal before it reaches the premises of that person or by reason of any disease in or injury to the animal, that person or that agent commits an offence against this Act.

Penalty: One hundred pounds.



29. (1) Any condition, express or implied, in any contract or agreement that provides for the making of any charge or the deduction of any amount that would, if made or deducted after the commencement of this Act, be an offence under this Act, shall—

Certain conditions in contracts to be inoperative.

(a) if made after the commencement of this Act, be void and of no effect; or

(b) if made before the commencement of this Act, cease to have any further force, operation or effect on and after the commencement of this Act.

(2) The provisions of subsection (1) do not apply in respect of any condition imposed under subsection (3) of section twenty-three of this Act, or in respect of anything done in compliance with any condition so imposed.

30. A person shall not in any way obstruct, hinder or interfere with, or attempt to obstruct, hinder or interfere with, the Chief Inspector, or any inspector, veterinary surgeon, or veterinary officer or other officer of the Department, in the exercise of any of his powers or functions or the performance of any of his duties under this Act.

Obstructing, etc. officers an offence.

Penalty: Fifty pounds.

31. (1) Subject to subsection (3) of this section, a certificate or a notice under the hand of an inspector is, in all questions arising under this Act, *prima facie* evidence of the truth of the matter contained therein.

Evidence and judicial notice.

(2) Courts, judges and other persons acting judicially shall take judicial notice of the appointment and signature of the inspector.

(3) Where a question arises as to whether any particular cattle are or are not beef cattle, the Chief Inspector shall determine the question and his determination is final and conclusive.

General  
penalty.

32. (1) A person who—

- (a) does that which by or under this Act he is forbidden to do; or
- (b) does not do that which by or under this Act he is required or directed to do; or
- (c) otherwise contravenes or fails to comply with any provision of this Act,

commits an offence against this Act.

(2) A person who commits an offence against this Act is liable on conviction to a penalty or punishment not exceeding that expressly mentioned as the penalty or punishment for the offence, or if a penalty or punishment is not so mentioned, to a penalty not exceeding fifty pounds.

Regulations.

33. The Governor may make regulations—

- (a) prescribing the manner of making and dealing with and the verification of applications for compensation;
- (b) prescribing the form of any certificate to be issued by the Chief Inspector or any inspector or other person in respect of the destruction of any diseased beef cattle or any beef cattle suspected to be suffering from disease, or the condemnation of any diseased carcass or portion of a carcass, and the particulars to be set forth in any such certificate;
- (c) for the retention under this Act of beef cattle by their owner, where the cattle are affected with a localised form of disease only, and prescribing the conditions of the retention;
- (d) safeguarding the Fund from claims for compensation in respect of beef cattle where such cattle are diseased or suspected

of being diseased when introduced or being introduced into the State whether by land, sea or air, and generally preventing fraudulent or dishonest claims for compensation;

- (e) prescribing all matters and things necessary or convenient to be prescribed with respect to the Fund and the administration thereof;
  - (f) prescribing forms for the purposes of this Act;
  - (g) prescribing penalties, not exceeding fifty pounds in any case, for any contravention of or failure to comply with the regulations; and
  - (h) generally in relation to 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 breaches of this Act.
-