

Western Australia

**Cattle Industry  
Compensation Act 1965**

**Reprinted as at 20 August 1999**



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## Cattle Industry Compensation Act 1965

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**Defined Terms**



## **Cattle Industry Compensation Act 1965**

**An Act to consolidate and amend the law providing for the testing of cattle for disease; to establish a fund for the payment of compensation to the owners of cattle and of carcasses of cattle in certain cases and for other purposes; to repeal the *Dairy Cattle Industry Compensation Act 1960*, and the *Beef Cattle Industry Compensation Act 1963*, and for incidental and other purposes.**

*[Long title amended by No. 14 of 1989 s.2.]*

**1. Short title**

This Act may be cited as the *Cattle Industry Compensation Act 1965*<sup>1</sup>.

**2. Commencement**

This Act shall come into operation on a date to be fixed by proclamation<sup>1</sup>.

*[3. Repealed by No. 10 of 1998 s.76.]*

## **Part I — Preliminary**

### **4. Acts repealed**

The Acts mentioned in the Schedule to this Act are hereby repealed.

### **5. Construction**

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.

### **6. Interpretation**

In this Act unless the contrary intention appears —

“**animal**” means a head of cattle;

“**cattle**” means any bull, cow, ox, steer, heifer or calf;

“**carcass**” means the carcass of an animal;

“**Chief Inspector**” means the person for the time being holding the office of Chief Inspector of Stock under the *Stock Diseases (Regulations) Act 1968*;

“**Commissioner of State Taxation**” means the person holding the office of Commissioner of State Taxation <sup>2</sup> under the *Public Service Act 1978* <sup>3</sup>;

“**Department**” means the Government Department of the State known as the Department of Agriculture <sup>4</sup>;

“**destroy**” means to consume by fire, bury under the ground, boil down, kill or otherwise destroy to the satisfaction of an inspector and includes disposal at an abattoir or slaughterhouse;

“**Director**” means the person for the time being holding the office of Director of Agriculture <sup>5</sup> in the Department;



**“disease”** means tuberculosis, actinomycosis, brucellosis and any other enzootic disease, within the meaning of the *Stock Diseases (Regulations) Act 1968*, of cattle that the Governor may by proclamation declare to be a disease for the purposes of this Act; and the term **“diseased”** has a corresponding meaning;

**“inspector”** means an inspector of stock appointed under the *Stock Diseases (Regulations) Act 1968*;

**“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 authorized agent of the owner;

**“processing company”** means a company the business of which is or includes the purchasing of cattle or carcasses from owners thereof for the purpose of processing meat;

**“specified area”** means a part of the State specified in a notice made by the Minister and published in the *Government Gazette* pursuant to section 17A;

**“specified disease”** in relation to a specified area means any disease of cattle which is an enzootic disease within the meaning of the *Stock Diseases (Regulations) Act 1968*, that the Minister, by notice published in the *Government Gazette* pursuant to section 17A specifies as a specified disease in that area for the purposes of this Act;

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

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

*[Section 6 amended by No. 14 of 1969 s.2; No. 21 of 1970 s.33; No. 45 of 1981 s.2; No. 44 of 1988 s.4]*

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**7. Application of Act**

This Act applies in that part of the State known as the South-West Division as described in Schedule 1 to the *Land Administration Act 1997*, and in such other parts of the State as the Governor by proclamation, declares and is hereby authorized to declare from time to time to be areas in which the provisions of this Act shall apply.

*[Section 7 amended by No. 31 of 1997 s.13.]*

**8. Governor may proclaim diseases of cattle**

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

**9. Administration**

- (1) Subject to the direction and control of the Minister the Department shall administer this Act, except Part IV.
- (2) The costs of the administration of this Act shall be charged to the Fund.

*[Section 9 amended by No. 49 of 1996 s.64.]*

## **Part II — Testing of cattle**

### **10. Cattle to be inspected**

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

Penalty: \$1 000.

*[Section 10 amended by No. 113 of 1965 s.8; No. 20 of 1989 s.3.]*

### **11. Testing of cattle for disease**

- (1) The Chief Inspector shall apply or cause to be applied such tests and bacteriological, serological and bio-chemical 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 cattle.
- (2) Every person who carries out any test, investigations or examination referred to in this section shall as soon as reasonably practicable after so doing, complete and furnish to the Department a form as prescribed disclosing the result of the test, investigation or examination and containing therein such other particulars as are prescribed.

*[Section 11 amended by No. 14 of 1969 s.3.]*

### **12. Diseased cattle be marked for identification**

- (1) Where an animal upon being subjected to a test, investigation or examination pursuant to section 11 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 authorized to direct.

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

*[Section 12 amended by No. 45 of 1981 s.3.]*

**13. Disease of cattle in localised form**

Notwithstanding the provisions of any Act, where 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 any regulations made thereunder, may require the owner to retain the cattle under such conditions as he thinks fit.

**14. Chief Inspector may direct cattle to be destroyed at specified abattoirs**

Where cattle are to be destroyed —

- (a) by order of the Chief Inspector or an inspector, because the cattle are suffering from disease or from a specified disease in a specified area, or are suspected to be so suffering; or
- (b) with the consent of the Chief Inspector, where cattle are suffering from a disease or are suspected to be so suffering,

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 abattoir specified in the notice.

*[Section 14 inserted by No. 45 of 1981 s.4.]*

## **Part IIA — Infected cattle**

*[Heading inserted by No. 44 of 1988 s.5.]*

### **14A. Interpretation**

For the purposes of this Part —

**“infected cattle”** means diseased cattle or cattle which, in the opinion of an inspector, have been exposed to the risk of infection with disease or the cause of disease by reason of contact;

**“property”** means any run, station, farm, freehold or leasehold, or place where cattle are kept or pastured;

**“specified”** means specified in an order under section 14B.

*[Section 14A inserted by No. 44 of 1988 s.5.]*

### **14B. Power to order destruction of infected cattle**

- (1) The Chief Inspector may issue an order, by giving notice in the prescribed form to the owner of cattle, for the destruction of all or any cattle in or upon any property notwithstanding that the cattle have not been tested, investigated or examined under section 11, where an inspector is of the opinion that the cattle have been in contact with diseased cattle.
- (2) An order under subsection (1) may prescribe —
  - (a) the manner in which;
  - (b) the time within which; and
  - (c) the person by whom,the cattle shall be destroyed.
- (3) For the purposes of subsection (2)(c) the order may direct that the cattle be destroyed by or under the supervision of a specified person on a specified property.

*[Section 14B inserted by No. 44 of 1988 s.5.]*

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**14C. Procedure where owner fails to comply with order**

- (1) Where in any respect an owner fails to comply with an order under section 14B and without prejudice to any proceedings which may be taken upon such failure, the Chief Inspector may direct an inspector to enter the specified property and destroy or cause to be destroyed the specified cattle.
- (2) In order to carry out the order under section 14B an inspector may if he thinks fit remove or cause to be removed any cattle to another place.
- (3) The right of entry conferred upon an inspector under this section shall include right of ingress, egress or regress into, upon or from any property where the specified cattle are found.

*[Section 14C inserted by No. 44 of 1988 s.5.]*

**14D. Expenses of destruction of cattle**

The costs and expenses of and attendant upon the destruction of cattle under section 14C shall in every case be borne by the owner of the cattle.

*[Section 14D inserted by No. 44 of 1988 s.5.]*

**14E. Unauthorized removal of specified cattle prohibited**

A person shall not, except where authorized by an order made under section 14B remove, procure the removal or in any way deal with any specified cattle.

Penalty: \$10 000.

*[Section 14E inserted by No. 44 of 1988 s.5.]*

### **Part III — Compensation for cattle**

#### **15. Persons to whom compensation payable**

Subject to the provisions of this Act compensation is payable under this Act —

- (a) to the owner of any 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 from a specified disease in a specified area or are suspected to be so suffering;
- (b) to the owner of any cattle destroyed with the consent of the Chief Inspector, because the cattle are suffering from disease or are suspected to be so suffering;
- (ba) to the owner of any cattle destroyed by or by order of the Chief Inspector under section 14B;
- (c) to the owner of any carcass or portion of a carcass that in pursuance of any Act is at an abattoir and condemned because of disease or a specified disease as unfit for human consumption by the Chief Inspector, an inspector, or any other person authorized by that Act to so condemn the carcass;
- (d) pursuant to section 17A, to the owner of any cattle which are proved to the satisfaction of the Chief Inspector or an inspector to have died from a specified disease in a specified area.

*[Section 15 amended by No. 45 of 1981 s.5; No. 44 of 1988 s.6.]*

#### **16. Amount of compensation**

- (1) The amount of compensation payable under this Act in respect of cattle destroyed, because the cattle are suffering from disease or from a specified disease in a specified area, or are suspected to be so suffering, shall be the value of the cattle so destroyed as determined pursuant to the provisions of section 17(1).

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- (1a) The amount of compensation paid for cattle destroyed pursuant to an order under section 14B shall be the value of the cattle so destroyed as determined under section 17(1) less any costs incurred as a result of a direction made by the Chief Inspector under section 14C due to a failure by the owner of the cattle to comply with the order.
- (2) The amount of compensation payable under this Act in respect of a carcass or portion of a carcass that is condemned as unfit for human consumption because of disease or a specified disease, shall be the market value of that carcass or portion of a carcass.
- (2a) The amount of compensation payable under this Act in respect of any cattle which have been proved to the satisfaction of the Chief Inspector or an inspector to have died from a specified disease in a specified area, shall be the value of the cattle so dying as determined pursuant to section 17(1a).
- (3) Notwithstanding anything contained in this Act, no amount of compensation payable in respect of the destruction or death from a specified disease in a specified area of any animal or of the condemnation of any carcass or portion of a carcass as unfit for human consumption, pursuant to this Act, shall exceed an amount recommended at least once annually by the Minister and approved by the Governor.

*[Section 16 amended by No. 45 of 1981 s.6; No. 44 of 1988 s.7.]*

**17. Determination of value of cattle**

- (1) The value of any 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 or under whose direction 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.



- (1a) The value of any cattle which have been proved to the satisfaction of an inspector to have died from a specified disease in a specified area shall be as determined by agreement between the owner of the cattle and that inspector, 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 proceeds of the disposal of any carcass or portion of a carcass to which this Act applies shall be credited to the Fund.
- (4) In subsection (1a) —  
**“inspector”** includes the Chief Inspector.

*[Section 17 amended by No. 45 of 1981 s.7; No. 44 of 1988 s.8; No. 49 of 1996 s.64.]*

**17A. Compensation for specified disease in specified area**

- (1) The Minister may, after making such enquiries as he sees fit and after consultation with primary producer organizations, by notice published in the *Government Gazette* declare that compensation is payable under this Act to the owner or owners of any cattle which are proved to the satisfaction of the Chief Inspector or an inspector to have died —
  - (a) from a disease specified in the notice;
  - (b) in an area of the State specified in the notice; and
  - (c) either —
    - (i) on or after a date specified in the notice; or
    - (ii) during a period specified in the notice,which date or period, as the case requires, may be prior to the publication of the notice.
- (2) A notice published under subsection (1) —
  - (a) when so published takes effect or shall be deemed to have taken effect according to its tenor on the day

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specified in the notice as that on which it takes effect or shall be deemed to have taken effect, and in the absence of such a specification, takes effect on the day of publication; and

- (b) may be cancelled or varied at any time by the Minister by a subsequent notice so published but such cancellation or variation shall not affect any right to compensation for the death of cattle proved to have occurred during the period in which the notice was in operation.

*[Section 17A inserted by No. 45 of 1981 s.8.]*

**18. Application for compensation**

- (1) Compensation under this Act is not payable unless the person claiming to be entitled to compensation under 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 by the statutory declaration of that person.
- (2) Compensation under this Act is not payable unless the application for compensation is made by the applicant within 90 days after the destruction of the animal, or the condemnation of the carcass or portion thereof, as the case may be, in respect of which the application is made, but where such application is made after the expiration of that period, the Minister may nevertheless authorize payment of the whole or part of the compensation if he is satisfied that reasonable grounds existed for the delay in making the application.

*[Section 18 amended by No. 52 of 1976 s.2.]*

**19. Circumstances in which compensation not payable**

Compensation under this Act is not payable —

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

- (b) if the owner of any cattle infected with disease or suspected by the owner of being so infected has failed to give the notice required to be given pursuant to the *Stock Diseases (Regulations) Act 1968*;
- (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 applicant for compensation has been duly paid in accordance with the provisions of this Act; and
  - (ii) that the applicant for compensation has complied with the requirements of this Act with respect to applications and claims for compensation;
- (d) in respect of cattle imported or introduced into the State and destroyed within 90 days of their arrival in the State because they are suffering from disease or suspected to be so suffering, unless the Chief Inspector is satisfied that the cattle became diseased after their arrival in the State, or unless the cattle after being destroyed are found to be free from disease;
- (e) if the person making the claim for compensation is convicted of an offence under section 20 or section 37;
- (f) in respect of cattle destroyed pursuant to the provisions of any Act, other than this Act, and in respect of which destruction provision is made for compensating the owner for loss or damage resulting therefrom;
- (g) in respect of diseased cattle destroyed after any test, investigation or examination, unless that test, investigation or examination was authorized by the Chief Inspector; or
- (h) in respect of a carcass or portion of a carcass condemned by the Chief Inspector, an inspector or other authorized person because of disease or a specified disease, as unfit for human consumption, unless the person making the claim for compensation produces a certificate in the

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prescribed form furnished by the inspector or other authorized person who condemned the carcass or portion thereof.

*[Section 19 amended by No. 14 of 1969 s.4; No. 45 of 1981 s.9.]*

**20. Offence of dealing in diseased cattle to claim compensation**

A person who —

- (a) buys or sells or attempts to buy or sell 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 or portion of a carcass of any of the cattle;
- (aa) buys or sells or attempts to buy or sell cattle, knowing that the cattle are, or having reasonable cause to suspect that the cattle will become the subject of an order under section 14B, with the intention of making a claim or enabling another person to make a claim for compensation under this Act in respect of the destruction of the cattle; or
- (b) buys or sells or attempts to buy or sell any carcass or any portion of a carcass, knowing or having reasonable cause to suspect that carcass or portion 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 or portion of a carcass,

commits an offence.

Penalty: \$2 000 in respect of each animal or each carcass or portion of a carcass so bought or so sold or in respect of which the attempt is made, as the case may be.

*[Section 20 amended by No. 113 of 1965 s.8; No. 44 of 1988 s.9; No. 20 of 1989 s.3.]*

**20A. Certain costs of vaccination payable out of Fund**

Where the Chief Inspector certifies that cattle have been vaccinated, pursuant to an order or direction given under any other Act, for the purpose of preventing the spread of disease, the Director may cause any costs properly incurred for the purposes of the vaccination to be charged to the Fund.

*[Section 20A inserted by No. 14 of 1969 s.5; amended by No. 49 of 1996 s.64.]*

## **Part IV — Cattle Industry Compensation Fund**

### **21. Cattle Industry Compensation Fund established**

- (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 at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*, an account to be called the “Cattle Industry Compensation Fund”.
- (2) The Fund shall be controlled by the Director and may be operated upon for the purposes of this Act in such manner as the Treasurer approves and is hereby authorized to approve from time to time.

*[Section 21 amended by No. 98 of 1985 s.3; No. 49 of 1996 s.64.]*

### **21A. Application of *Financial Administration and Audit Act 1985***

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of departments apply to and in respect of the Department and the Fund.

*[Section 21A inserted by No. 98 of 1985 s.3.]*

### **22. Closure of Compensation Funds established under Acts repealed by this Act**

- (1) Upon the date of the coming into operation of this Act —
  - (a) the account called The Dairy Cattle Industry (Butter Fat) Compensation Fund established under the *Dairy Cattle Industry Compensation Act 1960*<sup>6</sup>, and kept in the Treasury; and
  - (b) the account called the Beef Cattle Industry Compensation Fund established under the *Beef Cattle*

*Industry Compensation Act 1963*<sup>6</sup>, and kept in the Treasury,

shall each be closed and not be further operated upon except as provided by this section.

- (2) The moneys standing to the credit of each of the funds referred to in subsection (1) at the date of their closure (including any moneys invested by the Treasurer from those Funds) shall be appropriated and applied by the Treasurer in payment thereof to the credit of the Fund established under section 21.
- (3) Notwithstanding the repeal effected by section 4 of this Act of the *Dairy Cattle Industry Compensation Act 1960* and the *Beef Cattle Industry Compensation Act 1963*, where at the coming into operation of this Act any application for compensation has been made under either of the repealed Acts and has not been finalised, that application shall be deemed to have been made under the provisions of this Act and shall be continued and finalised as though it were an application for compensation made under and in accordance with those provisions.

**23. Application of the Fund**

- (1) There shall be credited to the Fund —
  - (a) the sum of \$20 000 payable to the credit of the Fund under and in pursuance of section 57(2)(a) of the *Milk Act 1946*<sup>7</sup>;
  - (b) the moneys appropriated and applied by the Treasurer pursuant to section 22(2);
  - (c) all moneys received by or for the Commissioner of State Taxation<sup>2</sup> in respect of stamp duty on statements under this Act, which money the Treasurer is hereby authorized to pay to the Fund;
  - (d) all moneys received from the Treasurer under the provisions of section 25;

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- (e) all moneys received for the residual value of 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;
  - (f) the proceeds of the disposal of any carcass or portion of a carcass to which this Act applies;
  - (g) moneys advanced to the Fund under the authority of section 24;
  - (h) the amount of all penalties recovered under this Act in respect of offences against this Act; and
  - (i) any other moneys paid to the Director under this Act for payment to the Fund.
- (2) Subject to this Act, the Fund shall be applied —
- (a) for the purposes of administering this Act;
  - (b) to the payment pursuant to this Act of claims for compensation;
  - (c) to the payment of the costs of the provision of, or the promotion and encouragement of, scientific research for the improvement of cattle health and production; and
  - (d) any other purpose that, in the opinion of the Minister, will promote and encourage the cattle industry.
- (3) 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 credited to the Fund.

*[Section 23 amended by No. 113 of 1965 s.8; No. 21 of 1970 s.34; No. 14 of 1979 s.3; No. 49 of 1996 s.64.]*

**24. Treasurer may make advances to the Fund in event of a deficiency**

- (1) Where the Treasurer is of opinion that the moneys standing to the credit of the Fund are at any time insufficient for the



purposes of this Act, the Treasurer may advance to the Fund moneys sufficient for the time being to make up the deficiency.

- (2) Moneys advanced under subsection (1) shall be subsequently repaid to the Treasurer and charged to the Fund by the Director as and when moneys are available to the Fund to make repayment.
- (3) Moneys advanced by the Treasurer under this section are so long as the remain unpaid a charge on the Fund.

*[Section 24 amended by No. 98 of 1985 s.3; No. 49 of 1996 s.64.]*

**25. Contribution to the Fund by Treasurer**

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 of State Taxation<sup>2</sup> in respect of stamp duty on statements under this Act.

*[Section 25 amended by No. 21 of 1970 s.35.]*

**26. Stamp duty on sales of cattle**

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

**27. Statements on sales of cattle**

- (1) Every owner of cattle or the carcasses of cattle, or the agent of any such owner, except where that agent as the holder of a valid and current permit under section 28 is exempted from complying with the requirements of this subsection, or except an owner or the agent of that owner who is exempted from complying with those requirements by virtue of such a permit issued to a processing company under the provisions of

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section 33, shall upon the sale of the cattle or carcasses, 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 out the number of cattle or carcasses 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 duty stamps to the amount of the duty payable under this Act, and cancel the stamps; and
  - (c) send the statement to the Commissioner of State Taxation<sup>2</sup> within 14 days of the sale.
- (2) Where a number of head of cattle, or a number of carcasses, are sold in one lot, it shall not be necessary to set out in the statement referred to in subsection (1) the amount of purchase money payable in respect of each animal, or as the case may be, each carcass, but the statement shall set out the amount of the purchase money in respect of the one lot.

*[Section 27 amended by No. 21 of 1970 s.36.]*

**28. Minister may exempt agent from completing cattle sales statements**

- (1) An agent referred to in section 27, or a person, firm or company whose business is or includes acting as selling agents of cattle or carcasses, or both cattle and carcasses, 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 that section, but instead authorizing him or them, while the permit is effective, to lodge with the Minister returns of purchase money received from sales of cattle or carcasses, or both cattle or carcasses, 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 26 in respect of the purchase money included in each return.

- (2) If it appears to the Minister that an application under subsection (1) is made in good faith and that if the application is granted economy in the administration of this Act will result, the Minister may issue a permit in writing, and 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 conferred by this subsection conditions —
- (a) as to the manner, form, and time, of compiling and lodging returns and paying the duty; and
  - (b) limiting the period to which each return must relate.
- (3) The Minister may, by notice in writing served on the holder of a permit issued under this section —
- (a) from time to time alter any of the conditions contained in the permit; or
  - (b) cancel the permit,
- without being required to assign any reason for doing so, and shall cause the Commissioner of State Taxation<sup>2</sup> to be notified of the issue of any permit, the conditions of the permit, any alteration of those conditions, and any cancellations of permits.
- (4) Production of a document that purports to be a copy of a permit issued under this section, 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 permit 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 permit.

*[Section 28 amended by No. 21 of 1970 s.37.]*

**29. Agent to pay to Minister duty out of purchase money**

- (1) Where an agent who is the holder of a valid and current permit issued under section 28 receives purchase money for the sale on behalf of an owner of cattle or carcasses or both cattle and

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carcasses, that agent shall apply so much of the purchase money as equals the amount of duty payable under this Act in respect of that purchase money in payment of the duty to the Minister, whose acknowledgment of receipt of the payment of such amount is a discharge to the agent of the liability to pay the amount to the owner or any person claiming through the owner, and is a discharge to the owner for liability to pay that amount of duty.

- (2) Any amount that an agent is required by subsection (1) to pay to the Minister is, until so paid, a debt owing by the agent to the Minister and, notwithstanding subsection (4), may be recovered from the agent in a court of competent jurisdiction at the suit of the Commissioner of State Taxation <sup>2</sup>.
- (3) A person who, being an agent referred to in subsection (1), does not comply with the requirements of that subsection, commits an offence.
- (4) 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, that amount is a debt owing by the owner to the Minister and may, without prejudice to subsection (2), be recovered in a court of competent jurisdiction at the suit of the Commissioner of State Taxation <sup>2</sup>.

*[Section 29 amended by No. 21 of 1970 s.38.]*

**30. Contravention of section 27(1) or 28 an offence**

Without affecting his liability to pay the amount of any unpaid duty payable under this Act, every owner or agent who contravenes or fails to comply with any of the provisions of section 27(1), or as the case may be, of any condition imposed under section 28, commits an offence against this Act, and is liable upon conviction to a penalty not exceeding \$1 000, and shall in the case of an agent holding a permit be punishable notwithstanding any subsequent alteration of the conditions of,

or any cancellation of, the permit, and notwithstanding any other enactment.

*[Section 30 amended by No. 113 of 1965 s.8; No. 20 of 1989 s.3; No. 78 of 1995 s.10.]*

**31. Sale of carcass of animal slaughtered after sale**

If —

- (a) any head of cattle is sold and duty stamps are affixed as provided by section 27(1) to a statement 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 section 28; and
- (b) within 14 days after the sale the animal is slaughtered; and
- (c) the statement given, or as the case may be, the return so compiled, pursuant to the provisions of this Act 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 duty stamps to the statement given upon any such sale of the carcass, and that 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.

**32. Permit holder to notify particulars of sale to purchaser in certain circumstances**

Where the holder of a valid and current permit issued under section 28 compiles returns of any sales of cattle or carcasses, or both, he shall instead of complying with the requirements of section 27(1)(c), send to the purchaser within 14 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.

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**33. Permit to processing company**

- (1) A processing company may apply in writing to the Minister for a permit —
  - (a) exempting an owner or his agent who has sold cattle or carcasses, or both cattle and carcasses, to the company from complying with the requirements of section 27(1);
  - (b) authorizing the company, while the permit is effective, to lodge instead of the owner or his agent returns of purchase money paid by the company to the owner or his agent on the sale of cattle or carcasses, or both, to the company by the owner during any period of any duration fixed by the Minister; and
  - (c) authorizing the company to pay to the Minister, on behalf of the owner or his agent, the amount of duty payable under section 26 in respect of the purchase money included in each return.
- (2) The provisions of section 28(2), (3) and (4) apply to an application made under and a permit issued under subsection (1).

**34. Processing company to pay to Minister duty out of purchase money**

- (1) A processing company that is the holder of a valid and current permit issued under section 33 shall, before it pays to the owner or his agent any purchase money for cattle or carcasses sold to it by the owner, apply and thereafter shall pay to the Minister in accordance with the permit, so much of that money as equals the amount of duty payable under this Act in respect of that 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 the liability to pay the amount to the owner or any person claiming through the owner, and is a discharge to the owner for liability to pay that amount of duty.

- (2) Any amount that a processing company is required by subsection (1) to pay to the Minister is, until so paid, a debt owing by the company to the Minister and may be recovered from the company in a court of competent jurisdiction at the suit of the Commissioner of State Taxation<sup>2</sup>, but until such time as any amount of duty for which an owner is liable under this Act has been paid, the amount is a debt owing by the owner to the Minister and may, without prejudice to the foregoing provisions of this subsection, be so recovered from the owner by the Commissioner of Stamps.
- (3) A processing company that fails to comply with any of the conditions included in a permit issued under section 33 commits an offence against this Act and is punishable notwithstanding any subsequent alteration of the conditions of, or any cancellation of, the permit, and notwithstanding any other enactment.
- (4) Where a processing company that holds an effective permit issued under section 33 complies, in accordance with that permit, returns of purchase moneys paid by it to an owner or his agent on the sale of cattle or carcasses, or both, to the company by the owner, the company shall cause to be posted to the owner, within 14 days after the sale, a notice in writing setting out the particulars of the sale and stating that as the holder of the permit the company has included the particulars of the sale in a return complied pursuant to the permit.

*[Section 34 amended by No. 21 of 1970 s.39; No. 78 of 1995 s.10.]*

**35. Cattle sales duty stamps**

- (1) The stamp duties on the statements referred to in section 27 shall be denoted by adhesive stamps issued by the Commissioner of State Taxation<sup>2</sup>, and the amount of the stamp duty payable on any such statement shall be calculated to the nearest cent.

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- (2) A statement required under this Act to be stamped shall not be regarded or taken to be duly or properly stamped unless adhesive stamps to the value of the stamp duty payable thereon are attached to the statement and duly cancelled.

*[Section 35 amended by No. 113 of 1965 s.8; No. 21 of 1970 s.40.]*

**36. Recovery of stamp duty**

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 of State Taxation<sup>2</sup> in any court of competent jurisdiction.

*[Section 36 amended by No. 21 of 1970 s.41.]*

**37. Fraudulent act an offence**

- (1) Without affecting the operation of section 38, 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: \$3 000 or imprisonment for 6 months, or both the fine and the imprisonment.

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

*[Section 37 amended by No. 113 of 1965 s.8; No. 20 of 1989 s.3.]*

**38. Application of Stamp Act 1921**

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



## **Part V — Miscellaneous**

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

If on the sale of any cattle to any person, whether sold singly or as part of a lot, 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 reaching 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: \$2 000.

*[Section 39 amended by No. 113 of 1965 s.8; No. 20 of 1989 s.3.]*

**40. Certain conditions in contracts to be inoperative**

- (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 coming into operation of this Act, be an offence under this Act, shall —
  - (a) if made after the coming into operation of this Act, be void and of no effect; or
  - (b) if made before the coming into operation of this Act, cease to have any further force, operation or effect on and after the coming into operation of this Act.
- (2) The provisions of this section do not apply in respect of any condition imposed under section 28(2) or 33(2), or in respect of anything done in compliance with any condition so imposed.

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**41. Obstructing officers, etc., an offence**

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.

Penalty: \$2 000.

*[Section 41 amended by No. 113 of 1965 s.8; No. 20 of 1989 s.3.]*

**42. Proclamation may be cancelled etc.**

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

**43. Offences to be dealt with summarily**

Any proceedings for an offence against this Act may be commenced at any time within 12 months from the time of the commission of the offence, and may be instituted and dealt with summarily under and in accordance with the provisions of the *Justices Act 1902*.

**44. Evidence and judicial notice**

- (1) 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.
- (2) Courts, judges and other persons acting judicially shall take judicial notice of the appointment and signature of the inspector.

**45. General penalties**

- (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 upon 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 \$2 000.

*[Section 45 amended by No. 113 of 1965 s.8; No. 20 of 1989 s.3.]*

#### **46. Regulations**

The Governor may make regulations —

- (a) prescribing the manner of making and dealing with applications for compensation under this Act and the verification thereof;
- (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 cattle, or any cattle suspected to be suffering from disease or from a specified disease, or in respect of the condemnation of any diseased carcass or portion of a carcass, or in respect of the death of any cattle from a specified disease in a specified area, and the particulars to be set out in any such certificate;
- (ba) prescribing the form of any form, notice or certificate to be issued by the Chief Inspector, an inspector or any other person in respect of the destruction of any cattle pursuant to an order under section 14B and the particulars to be specified in any form, notice or certificate;

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- (bb) prescribing the manner in which an inspector may direct the movement, mustering or yarding of cattle;
- (c) for the retention under this Act of cattle by their owner, where the cattle are affected with a localised form of disease only, and prescribing the conditions of such retention;
- (d) for safeguarding the Fund from claims for compensation in respect of 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 for 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 and fees for the purposes of this Act;
- (g) prescribing penalties, not exceeding \$2 000 in any case, for any contravention of or failure to comply with the regulations; and
- (h) generally in relation to all matters and things that by this Act are required or permitted to be prescribed, or that 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.

*[Section 46 amended by No. 113 of 1965 s.8; No. 45 of 1981 s.10; No. 44 of 1989 s.10; No. 20 of 1989 s.3.]*

**Schedule**

[Section 4]

**Acts repealed by this Act**

<b>Title of Act</b>	<b>Extent of Repeal</b>
<i>Dairy Cattle Industry Compensation Act 1960</i>	The whole Act
<i>Beef Cattle Industry Compensation Act 1963</i>	The whole Act



### Notes

- <sup>1</sup> This reprint is a compilation as at 20 August 1999 of the *Cattle Industry Compensation Act 1965* and includes all amendments effected by the other Acts referred to in the following Table.

### Table of Acts

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Cattle Industry Compensation Act 1965</i>	41 of 1965	8 November 1965	14 February 1966 (see <i>Gazette</i> 11 February 1966 p.437)	
<i>Cattle Industry Compensation Act Amendment Act 1969</i>	14 of 1969	6 May 1969	6 May 1969	
<i>Acts Amendment (Commissioner of State Taxation) Act 1970, Part VII</i>	21 of 1970	8 May 1970	1 July 1970 (see section 2 and <i>Gazette</i> 26 June 1970 p.1831)	
<i>Cattle Industry Compensation Act Amendment Act 1976</i>	52 of 1976	10 September 1976	10 September 1976	
<i>Cattle Industry Compensation Act Amendment Act 1979</i>	14 of 1979	30 August 1979	30 August 1979	
<i>Cattle Industry Compensation Amendment Act 1981</i>	45 of 1981	1 September 1981	1 September 1981	
<i>Acts Amendment (Financial Administration and Audit) Act 1985, section 3</i>	98 of 1985	4 December 1985	1 July 1986 (see <i>Gazette</i> 30 June 1986 p.2255)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Stock Diseases) Act 1988, Part 2</i>	44 of 1988	30 November 1988	13 January 1989 (see <i>Gazette</i> 13 January 1989 p.62)	
<i>Agricultural Legislation (Penalties) Amendment Act 1989, section 3</i>	20 of 1989	1 December 1989	15 December 1989 (see <i>Gazette</i> 15 December 1989 p.4513)	
<i>Sentencing (Consequential Provisions) Act 1995, Part 7</i>	78 of 1995	16 January 1995	4 November 1996 (see section 2 and <i>Gazette</i> 25 October 1996 p.5632)	
<i>Financial Legislation Amendment Act 1996, section 64</i>	49 of 1996	25 October 1996	25 October 1996 (see section 2(1))	
<i>Acts Amendment (Land Administration) Act 1997, Part 11</i>	31 of 1997	3 October 1997	30 March 1998 (see section 2 and <i>Gazette</i> 27 March 1998 p.1765)	
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998, section 76</i>	10 of 1998	30 April 1998	30 April 1998 (see section 2(1))	

<sup>2</sup> Now Commissioner of State Revenue.

<sup>3</sup> A reference to the *Public Service Act 1978* is to be construed as a reference to the *Public Sector Management Act 1994*: see section 112(1) of the *Public Sector Management Act 1994* (No. 31 of 1994).

<sup>4</sup> Now known as Agriculture WA.

<sup>5</sup> A reference to the Director of Agriculture is to be construed as a reference to the Director General of Agriculture: see section 16(1) of the *Agriculture Act 1988*.

<sup>6</sup> Repealed by this Act, section 4.

<sup>7</sup> Repealed by the *Dairy Industry Act 1973* (No. 92 of 1973).



**Defined Terms**

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<u>Defined Term</u>	<u>Provision(s)</u>
animal.....	6
carcass.....	6
cattle.....	6
Chief Inspector.....	6
Commissioner of State Taxation.....	6
Department.....	6
destroy.....	6
Director.....	6
disease.....	6
infected cattle.....	14A
inspector.....	6, 17(4)
market value.....	6
owner.....	6
processing company.....	6
property.....	14A
specified.....	14A
specified area.....	6
specified disease.....	6
the Fund.....	6
veterinary surgeon.....	6