

## STOCK DISEASES (AMENDMENT) ACT.

### Act No. 32, 1966.

**Elizabeth II,**  
**No. 32, 1966**

An Act to make further provisions with respect to the control of diseases in stock; to establish a Foot and Mouth Disease Eradication Fund and to provide for the payment of compensation from that fund in certain circumstances; for these purposes to amend the Stock Diseases Act, 1923, as amended by subsequent Acts, and certain other Acts; and for purposes connected therewith. [Assented to, 13th April, 1966.]

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title  
and  
citation.

**1.** (1) This Act may be cited as the "Stock Diseases (Amendment) Act, 1966".

(2) The Stock Diseases Act, 1923, as amended by subsequent Acts and by this Act, may be cited as the Stock Diseases Act, 1923-1966.

Amendment  
of Act No.  
34, 1923.

**2.** The Stock Diseases Act, 1923-1965, is amended—

Sec. 3.  
(Defini-  
tions.)

(a) (i) by inserting in section three next after the definition of "Carcass" the following new definition :—

"Chief of the Division of Animal Industry"  
means the Chief of the Division of  
Animal Industry of the Department of  
Agriculture.

(ii)

- (ii) by inserting in the same section in the definition of "Fodder" after the word "corn" the words ", any type of stock food";
- (iii) by inserting next after the same definition the following new definition :—
- "Fund" means the Foot and Mouth Disease Eradication Fund established under section 17B of this Act.
- (iv) by inserting in the same section next after the definition of "Infected" the following new definition :—
- "Inspector" means inspector appointed under this Act.
- (v) by inserting in the same section in the definition of "Occupier" after the word "superintendent" the words "or otherwise";
- (vi) by inserting in the same section next after the definition of "Regulations" the following new definition :—
- "Special disease" means foot and mouth disease, vesicular exanthema, vesicular stomatitis or any other disease declared to be a special disease under subsection two of section four of this Act.
- (vii) by inserting in the same section in the definition of "Stock" after the word "birds" the words "or any eggs of any birds";
- (viii) by inserting in the same section next after the definition of "Travelling stock" the following new definition :—
- "Veterinary surgeon" means a person registered as a veterinary surgeon under the Veterinary Surgeons Act, 1923, as amended by subsequent Acts.

(b)

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Sec. 4.

(Diseases  
may be  
proclaimed.)

(b) by inserting at the end of section four the following new subsection :—

(2) The Governor may, by the same or a subsequent proclamation published in the Gazette, declare that any disease therein specified shall be a special disease in respect of which the provisions of this Act applicable to special diseases or such of those provisions as may be specified in the proclamation shall apply.

Sec. 7.

(Powers of  
inspectors.)

(c) (i) by omitting from section seven the words "Any inspector" and by inserting in lieu thereof the words "Notwithstanding the provisions of any other Act, any inspector";

(ii) by inserting in paragraph (a) of the same section after the words "or carcass" the words "or fodder or fittings";

(iii) by inserting in paragraph (b) of the same section after the word "straying," the words "or any fodder or fittings which are contaminated with disease or which he suspects to be so contaminated,";

(iv) by inserting in the same paragraph after the word "stock" where thirdly and fourthly occurring the words ", carcass, fodder or fittings";

(v) by inserting next after the same paragraph the following new paragraph :—

(bi) cause any stock to be tested for any disease or take from any stock or carcass a specimen of any kind;

(vi) by inserting in paragraph (c) of the same section after the words "or treatment" the words "or of enabling the inspector to cause any or all of them to be tested for any disease or to take any specimens from them";

(vii) by inserting in paragraph (d) of the same section after the words "or treatment" where firstly occurring the words "or of enabling the  
the

the inspector to cause any or all of them to be tested for any disease or to take any specimens from them,"

- (viii) by inserting in the same paragraph after the words "or treatment" where secondly occurring the words "or test or to enable specimens to be taken from them,";

- (d) (i) by omitting from section eight the words "When any stock" and by inserting in lieu thereof the words "Notwithstanding the provisions of any other Act, when any stock"; Sec. 8. (Further powers of inspectors.)
- (ii) by inserting in paragraph (b) of the same section after the word "therewith" the words "or any thing produced by or from the stock";
- (iii) by inserting in subparagraph (i) of paragraph (d) of the same section after the word "stock" where secondly occurring the words "or any thing produced by or from the stock";
- (iv) by omitting from paragraph (e) of the same section the words "or article" and by inserting in lieu thereof the words "article or thing";

- (e) by inserting next after section eight the following new section : — New sec. 8A.

8A. Where an inspector may, under section seven (paragraph (b) excepted) or eight of this Act, give an order to any person to do anything in a special quarantine area, the inspector may, instead of giving such an order, do that thing with or without assistants. Further powers of inspectors in relation to special quarantine areas.

- (f) by omitting section nine and by inserting in lieu thereof the following section : — Subst. sec. 9.

9. (1) The occupier of any land upon which stock are depasturing, or the owner of any stock, or in the case of travelling stock the person in charge of the stock, shall, subject to subsection four of this section, give written notice in accordance with subsection three of this section within a period of forty-eight hours after it first comes to his knowledge that any of the stock are diseased. Occupier, etc., to give notice.

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(2) Subject to subsection four of this section, every veterinary surgeon who examines or is consulted with respect to any stock, and any other person who, in the practice of veterinary science, attends or is consulted with respect to any stock shall, if he is of opinion or suspects that any of the stock is diseased, give written notice in accordance with subsection three of this section within a period of forty-eight hours after he examined or attended the stock or was consulted with respect to the stock.

(3) Every written notice referred to in subsection one or two of this section shall be in or to the effect of the prescribed form and shall be given to—

- (a) a ranger employed by the pastures protection board, within the meaning of the Pastures Protection Act, 1934, as amended by subsequent Acts, for the pastures protection district in which the stock are then located;
- (b) a veterinary inspector within the meaning of that Act, as so amended, for that district; or
- (c) an inspector for the time being holding the office of district veterinary officer of the Department of Agriculture for the district in which the stock are then located.

(4) Where in any particular case it is impracticable for any such occupier, owner, person in charge, veterinary surgeon or other person to give such written notice within such period of forty-eight hours, it shall be a sufficient compliance with the provisions of subsection one or two of this section, as the case may be, if he gives to any such ranger, veterinary inspector or inspector verbal notice of the disease or suspected disease within such period and confirms it in such written form—

- (a) in the case of an occupier, owner or person in charge, within five days; or

(b)

(b) in the case of a veterinary surgeon or other person, within ten days, after the expiration of such period.

(5) An occupier, owner or person in charge referred to in subsection one of this section shall, so far as is practicable, cause any diseased stock to be drafted out and kept separate from stock which are not diseased.

(6) Proceedings against a person for a contravention of any of the provisions of this section may be instituted under this Act at any time within twelve months after the date on which the offence was committed.

(g) by inserting next after section ten the following new section :—

New sec.  
10A.

10A. (1) The Governor may by proclamation published in the Gazette declare any land therein described to be a special quarantine area on account of the presence or suspected presence of any special disease, and may by a like proclamation suspend or extend for any period or annul any such proclamation.

Declaration  
of special  
quarantine  
areas.

(2) The provisions of this Act and the regulations relating to quarantine areas apply to and in respect of special quarantine areas as if they had been declared to be quarantine areas.

(h) by omitting from subsection one of section 11B the words "or animal products" and by inserting in lieu thereof the words "animal products or anything which in the opinion of the Governor is likely to introduce disease";

Sec. 11B.  
(Protection  
against  
importation  
of diseased  
stock, etc.)

(i) by inserting in subsection one of section thirteen after the words "quarantine area" the words "or a protected area";

Sec. 13.  
(Power to  
order  
fencing.)

(j) (i) by omitting from subsection four of section fourteen the word "directed" and by inserting in lieu thereof the words "in a quarantine area or protected area or is required";

Sec. 14.  
(Quaran-  
tine.)

(ii)

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- (ii) by inserting in subsection five of the same section after the word "area" wherever occurring the words "or protected area";
- (iii) by omitting from the same subsection the word "regulations" and by inserting in lieu thereof the word "provisions";
- (iv) by omitting subsection six of the same section and by inserting in lieu thereof the following subsection : —

(6) The Minister may by a like notification direct that any or all stock within a quarantine area or protected area or within some specified part of a quarantine area or protected area shall be treated by prophylactic or curative methods for the disease or suspected disease in respect of which the quarantine is imposed or the protected area is declared, whether the stock are diseased or infected or not, and in any such notification the Minister may also direct that any or all of such stock shall be submitted, at a specified time or at specified intervals, to any specified test or tests for any disease or suspected disease.

Sec. 17.  
(Power to  
order  
destruction.)

- (k) (i) by inserting in paragraph (a) of subsection two of section seventeen after the words "quarantine area" the words "or protected area";
- (ii) by inserting at the end of the same section the following new subsection : —

(3) The provisions of this section do not apply in respect of any stock or property which may be destroyed under section 17A of this Act.

(1)

- (1) by inserting next after section seventeen the following new sections :—

New secs.  
17A-17I.

17A. (1) An inspector who is a veterinary surgeon and is authorised in writing by the Minister to do so may—

Inspectors' powers to destroy stock or property in certain circumstances.

- (a) destroy or cause to be destroyed any stock which are infected, or suspected by him to be infected, with a special disease;
- (b) destroy or cause to be destroyed any other property, not being a building, which in the opinion of the inspector is or may have been contaminated by a special disease; or
- (c) destroy or cause to be destroyed any building, not being a building used for residential purposes, which in the opinion of the inspector cannot be effectively disinfected.

(2) An authority given under subsection one of this section—

- (a) for an inspector to exercise the powers conferred by paragraph (a) or (b) of that subsection may be general or apply in respect of any specified stock or property or class of stock or property or may be limited as to time, place or circumstances; and
- (b) for an inspector to exercise the powers conferred by paragraph (c) of that subsection shall be limited to a specified building or to specified buildings.

17B. (1) There shall be established in the Special Deposits Account in the Treasury a Foot and Mouth Disease Eradication Fund into which shall be paid—

Foot and Mouth Disease Eradication Fund.

- (a) moneys payable to the State of New South Wales by any other State of the Commonwealth of Australia or by the Commonwealth of Australia in accordance with any arrangement made, whether before or after the commencement of this section, between the

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the State of New South Wales and such other States and the Commonwealth of Australia, or any of them;

- (b) the proceeds of the sale of any goods and equipment purchased out of moneys standing to the credit of the Fund and any repayments of moneys paid out of the Fund;
- (c) any gifts made for payment into the Fund;
- (d) all moneys appropriated by Parliament for payment into the Fund; and
- (e) any moneys from time to time advanced by the Treasurer for payment into the Fund.

(2) The Fund shall be applied to the following purposes, that is to say :—

- (a) the payment of expenses directly connected with the control or eradication of any special disease, except the salaries or wages of officers or employees of the State of New South Wales who are or would be employed irrespective of any outbreak of a special disease;
- (b) compensation payable under this Act and all costs and expenses incidental to determining the compensation so payable; and
- (c) the repayment to the Treasurer of any moneys referred to in paragraph (e) of subsection one of this section.

(3) The Treasurer may, at any time, direct, with respect to any moneys standing to the credit of the Fund that are not required for the purposes of the Fund, that those moneys be paid out of the Fund and divided among the State of New South Wales and the other States and the Commonwealth of Australia in such proportions as he determines having regard to the contributions made by the State of New South Wales and those other States and the Commonwealth of Australia to the Fund.

(4)

(4) The share of the State of New South Wales in any moneys divided in accordance with subsection three of this section shall be paid to the credit of the Consolidated Revenue Fund. No. 32, 1966

17C. Compensation shall be paid as hereinafter in this Act provided to the owner of— Compensation.

- (a) any stock or property which is destroyed in pursuance of section 17A of this Act; and
- (b) any stock which an inspector, who is a veterinary surgeon, certifies has died of a special disease.

17D. (1) Such compensation shall— Persons to whom compensation payable.

- (a) where there is only one owner of the stock or property—be paid to the owner; or
- (b) where there is more than one owner of the stock or property—be divided among those owners in accordance with their interests in the stock or property at the time of its destruction or death.

(2) In this section, "owner" in relation to any stock or other property that has been destroyed or stock that has otherwise died, means a person who, or partnership which, had an interest in the stock or other property at the time of its destruction or death, but does not include the holder of a mortgage, lien or charge over the stock or other property who was not in possession at that time.

17E. (1) No such compensation shall be payable in respect of any stock or property that has been destroyed or stock that has otherwise died unless within ninety days after the destruction or death, as the case may be, a claim **for** Claims.

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for compensation is lodged in the prescribed form and manner giving the prescribed particulars and the claim is verified as prescribed :

Provided that in any case where the 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.

(2) Where—

- (a) any stock or property is moved into, within or out of a special quarantine area in contravention of any provision made by this Act or the regulations; or
- (b) any stock is bought by a person, such person, in the opinion of the Minister, knowing or having reasonable cause to suspect that such stock was infected with a special disease,

the Minister may, notwithstanding any other provision of this Act, determine that no compensation or that compensation not exceeding such amount as is determined by the Minister, shall be paid in respect of the destruction of that stock or property or the death, otherwise than by destruction, of that stock.

Basis of  
compensa-  
tion.

17F. (1) Such compensation shall, subject as hereinafter in this Act provided, be—

- (a) in the case of stock—
  - (i) where the stock destroyed or the dead stock was infected by a special disease, the market value of such stock immediately before it became so infected;
  - (ii) in every other case, the market value of the stock immediately before it was destroyed;
- (b) in the case of property, its market value at the time it was destroyed.

(2)

(2) In determining the compensation to No. 32, 1966 be paid no allowance shall be made for loss of profit, loss occasioned by breach of contract, loss of production or any other consequential loss whatsoever.

(3) For the purpose of calculating the market value of the stock or property, that value shall be calculated upon a sale at the place where the stock or property was when it was destroyed or where the stock was when it otherwise died.

(4) Notwithstanding the provisions of any other Act, no compensation shall be paid under any other Act for or in respect of any stock or property for or in respect of which compensation has been or may be paid under this Act.

17G. (1) The market value of any stock or Mode of property in respect of which compensation is valuation. payable under this Act shall be—

- (a) such amount as is agreed upon by the Minister and the claimant; or
- (b) where such amount has not been so agreed upon, such amount as is fixed by a valuer appointed for the purpose jointly by the Minister and the claimant; or
- (c) where the Minister and the claimant have failed to agree upon the amount of compensation or upon the appointment of a valuer under paragraph (b) of this subsection, such amount as is fixed by a District Court Judge having jurisdiction in the district in which the destruction of the stock or property occurred or the stock otherwise died, as the case may be, upon an application made to that Judge in accordance with and within the time prescribed by the rules of court made for the purposes of this subsection.

(2)

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(2) Where a District Court Judge fixes the market value of any stock or property pursuant to paragraph (c) of subsection one of this section, that Judge may make such order as to the payment by the Minister of the amount so fixed as he deems fit.

Claim by  
convicted  
person.

17H. Where, after the commencement of this section, a person has, within the period of two years next preceding the date of his application for compensation under this Act, been convicted of an offence against this Act by reason of an act or omission as a result of which any stock has been infected, or exposed to the risk of infection, with a special disease or any other property has been contaminated, or exposed to the risk of contamination, with such a disease, the Minister may direct that the whole, or such part, as the Minister thinks fit, of the compensation to which that person would, but for this section, be entitled shall not be paid and any such direction shall have effect according to its tenor.

Offence.

17I. Any person who, with intent to mislead or defraud the Crown for the purpose of obtaining compensation for himself or any other person under this Act, knowingly makes a statement which is in any respect false or misleading or who practises or is concerned in any fraudulent act shall be guilty of an offence and upon summary conviction shall be liable to a penalty not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

Sec. 18.  
(Proceedings in  
default of  
compliance.)

(m) by inserting in subsection one of section eighteen after the words "Act, and" the words "whether or not he has been convicted of that offence";

Sec. 20.  
(Offences.)

(n) (i) by inserting in paragraph (a) of section twenty after the words "quarantine area" the words "or protected area";

(ii)

- (ii) by omitting from paragraph (e) of the same section the words "or within such area" and by inserting in lieu thereof the words "or protected area or within any such area";
- (iii) by omitting from the same section the words "shall be liable" and by inserting in lieu thereof the words "shall, subject to subsection two of this section, be liable";
- (iv) by inserting at the end of the same section the following new subsection :—

(2) Where any offence under subsection one of this section arises out of any act done or omitted to be done in a special quarantine area, or is committed in relation to stock infected with a special disease, or in relation to a special disease, the person committing the offence shall be liable to a penalty not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both such penalty and imprisonment.

- (o) (i) by inserting in paragraph (b) of subsection one of section twenty-three after the words "quarantine area" the words "or protected area";
- (ii) by inserting in paragraph (e) of the same subsection after the word "use" the words ", manufacture, testing or distribution";
- (iii) by inserting in paragraph (j) of the same subsection after the words "a quarantine area" the words "or protected area";
- (iv) by omitting paragraph (l) of the same subsection and by inserting in lieu thereof the following paragraph :—

(1) provide for the examination, testing and treatment of any stock or class of stock within a quarantine area or protected area or any part of any such area;

(v)

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(v) by inserting next after paragraph (q) of the same subsection the following new paragraphs :—

- (r) prohibit or regulate the taking from stock of specimens and regulate the removal or dispatch of specimens taken from stock;
- (s) prohibit or regulate the feeding to stock of food refuse of any kind and of any material or substance capable of harbouring any agent causing disease;
- (t) prohibit or regulate the movement of any stock which have been vaccinated or inoculated or treated in respect of any disease;
- (u) require any claim for compensation under this Act to be verified by statutory declaration.

(vi) by inserting next after subsection (1A) of the same section the following new subsections :—

(1B) Without limiting the generality of subsection one of this section, the Governor may make regulations for or with respect to the destruction of wild animals and birds in special quarantine areas.

(1C) Regulations may be made so as to differ in their application according to time, place or circumstances.

(vii) by inserting next after subsection three of the same section the following new subsection :—

(3A) Notwithstanding the provisions of subsection three of this section, the regulations may impose in respect of any offence under the regulations—

- (a) arising out of any act done or omitted to be done in a special quarantine area; or

(b)

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(b) committed in relation to stock infected No. 32, 1966  
with or anything contaminated by a         
special disease; or

(c) relating to a special disease,

a penalty not exceeding five hundred dollars  
or imprisonment for a term not exceeding  
three months or to both such penalty and  
imprisonment.

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