

No. 6216.

CATTLE COMPENSATION ACT 1958.

An Act to consolidate the Law relating to the Provision of Compensation for the Owners of certain Cattle.

[30th September, 1958.]

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 Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. This Act may be cited as the *Cattle Compensation Act* 1958, and shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*, and is divided into Parts as follows:—

Short title
commence-
ment and
division.

Part I.—Cattle Compensation ss. 4–9.

Part II.—Cattle Compensation Fund and Stamp Duties
ss. 10–14.

Part III.—Supplementary ss. 15–19.

2. (1) The Acts mentioned in the Schedule to the extent thereby expressed to be repealed are hereby repealed accordingly.

Repeal.
Schedule.

(2) Except as in this Act expressly or by necessary implication provided—

- (a) all persons things and circumstances appointed or created or under the repealed Acts or existing or continuing under those Acts immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if those Acts had not been so repealed;
- (b) in particular and without affecting the generality of the foregoing paragraph such repeal shall not disturb the continuity of status operation or effect of any regulation order certificate notice application statement determination direction agreement objection appointment condition contract consent power obligation liability or right made effected issued granted given presented passed fixed accrued or acquired or existing or continuing by or under that Act before the commencement of this Act.

Interpretation.
No. 3651 s. 3;
No. 3880 s. 2;
No. 4383 s. 2
(1), No. 5204
s. 2.

3. In this Act unless inconsistent with the context or subject-matter—

- " Carcass." " Carcass " means carcass of any cattle within the meaning of this Act.
- " Cattle." " Cattle " means any bull cow ox steer heifer or calf.
- " Cattle duty stamps." " Cattle duty stamps " means stamps issued pursuant to Part II. of this Act by the Comptroller of Stamps.
- " Chief inspector of stock." " Chief inspector of stock " means the chief inspector of stock under the *Stock Diseases Act 1958*.
- " Comptroller of Stamps." " Comptroller of Stamps " means the Comptroller of Stamps under the *Stamps Act 1958*.
- " Disease " and " diseased." " Disease " means pleuro-pneumonia contagiosa or tuberculosis or actinomycosis or hydatids or malignant tumour or Johne's disease; and " diseased " has a corresponding interpretation.
- " Fund." " Fund " means the Cattle Compensation Fund established under this Act.
- " Inspector of stock." " Inspector of stock " means an inspector of stock under the *Stock Diseases Act 1958*.
- " Market value." " Market value " of cattle means the value of such cattle calculated as upon a sale with delivery on the place where the cattle are when ordered to be destroyed and as if the cattle were free from disease within the meaning of this Act.

- “Owner” includes the authorized agent of the owner. “Owner.”
 “Prescribed” means prescribed by or under this Act. “Prescribed.”
 “Regulations” means regulations made under this Act. “Regulations.”

PART I.—CATTLE COMPENSATION.

4. (1) Subject to this Act compensation shall be payable under this Act in the cases and to the extent and subject to the conditions hereinafter provided—

Compensation payable to certain owners.

No. 3651 s. 4;
 No. 3880 s. 3.
 No. 4383 s. 2
 (2), No. 5489 s. 2.

(a) to the owner of any cattle destroyed (by or by order of any inspector of stock pursuant to any Act or any Regulation or order under any Act) because such cattle are suffering from or suspected of suffering from disease; or

(b) to the owner of any carcass or portion of a carcass condemned under Part XV. of the *Health Act* 1958 at any abattoir by a meat inspector as unfit for human consumption because of disease; or

(c) to the owner of any cattle destroyed (with the consent of the chief inspector of stock by or by the order of a dairy supervisor or registered veterinary surgeon approved by the Minister for the purposes of this Act whether generally or in any particular case) because such cattle are suffering from or suspected of suffering from disease; or

Compensation payable where cattle destroyed or carcasses condemned by dairy supervisor or registered veterinary surgeon in certain cases.

(d) to the owner of any carcass or portion of a carcass outside a meat area within the meaning of the *Health Act* 1958 where the services of a meat inspector are not available which has, by such a registered veterinary surgeon or (where the services of such a registered veterinary surgeon are not available by a medical officer of health appointed under section thirty-one of the said Act or any corresponding previous enactment, been certified as unfit for human consumption because of disease; and any reference hereinafter in this Act contained to any carcass or portion of a carcass condemned as unfit for human consumption because of disease shall be read and construed as including a reference to any carcass or portion of a carcass certified under this paragraph.

(2) Subject to this Act compensation as aforesaid—

(a) in cases of pleuro-pneumonia contagiosa or of hydatids or of malignant tumour or of John's disease, shall be payable out of the Cattle Compensation Fund under this Act; and

Compensation, how payable.

- (b) in cases of actinomycosis twenty per centum of such compensation shall be payable by the Treasurer of Victoria out of moneys to be provided by Parliament for the purpose and the remainder of such compensation shall be payable out of the said Cattle Compensation Fund; and
- (c) in cases of tuberculosis forty per centum of such compensation shall be payable by the Treasurer of Victoria out of moneys to be provided by Parliament for the purpose and the remainder of such compensation shall be payable out of the said Cattle Compensation Fund.

Amount of compensation payable when cattle destroyed.
No. 3651 s. 5;
No. 3880 s. 4;
No. 5489 s. 3.

5. (1) Subject to this Act the amount of compensation payable pursuant to this Act in respect of cattle ordered to be destroyed because they are suffering from or suspected of suffering from disease shall, whether after destruction the cattle are found to be free from disease or not, be the market value of the cattle subject to such deductions as are hereinafter specified:

Provided that for the purposes of this Act the market value of any one head of cattle shall not in any case be deemed to be more than Thirty-five pounds.

Compensation for carcass or portion thereof.

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

Determination of value of cattle, &c. destroyed as diseased.
No. 3651 s. 6.

6. (1) The value of any cattle so destroyed or any carcass or portion thereof so condemned shall be determined by agreement between the owner thereof and the inspector or other officer (including any dairy supervisor or veterinary surgeon approved as aforesaid and any medical officer of health appointed as aforesaid) under whose authority such cattle were destroyed or such carcass or portion thereof was condemned; and in default of such agreement the value shall be determined by some competent and impartial person nominated for the purpose by the Minister and the determination of such person shall be final and conclusive.

Determination of residual value.

(2) The residual value of any cattle so destroyed or of any carcass or portion thereof so condemned shall be determined in the like manner.

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

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

Application for compensation.
No. 3651 s. 7;
No. 4215 s. 3;
No. 4893 s. 4;
No. 5146 s. 4.

(2) The owner shall forward with such application a certificate (containing the prescribed particulars) to be furnished by the inspector of stock or by the dairy supervisor or veterinary surgeon approved as aforesaid who destroyed or ordered the destruction of the cattle or the meat inspector or the veterinary surgeon approved as aforesaid or the medical officer of health appointed as aforesaid who condemned the carcass or any portion thereof.

Certificate of inspector, &c.

(3) No compensation under this Act shall be payable unless the application for compensation has been made by the owner within thirty days after the destruction of the cattle or the condemnation of the carcass or portion thereof:

Time within which compensation claim to be made.

Provided that in any case where the application for compensation is made after the expiration of that period the Minister may authorize 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.

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

Compensation not payable in certain cases.

- (a) if the head only of any carcass is condemned as unfit for human consumption because of disease; or
- (b) where the owner of any cattle visibly affected with tuberculosis or actinomycosis has failed to give notice pursuant to the *Stock Diseases Act 1958* or the *Milk and Dairy Supervision Act 1958* or the regulations under either of the said Acts of the existence of such disease; or
- (c) unless the chief inspector of stock is satisfied—
 - (i) that all stamp duty (if any) payable under this Act in respect of all cattle of the owner claiming compensation any one of which is destroyed or the carcass of any one of which is condemned has been duly paid in accordance with the provisions of sub-section (1) of section twelve of this Act; and
 - (ii) that the owner claiming compensation has complied with this Act and the regulations with respect to applications and claims for compensation; or
- (d) in respect of any cattle introduced into Victoria whether by sea land or air, which are destroyed because such cattle are suffering from or suspected of suffering from pleuro-pneumonia contagiosa, if such cattle are so destroyed within three months

after the introduction of such cattle, unless the chief inspector of stock is satisfied that such cattle became so diseased after being introduced or unless such cattle are found to be free from disease.

Power to withhold compensation or part thereof in certain cases.

(5) No compensation or only such part of the compensation otherwise payable to the owner as the chief inspector of stock thinks reasonable shall (unless the Minister thinks fit) be payable under this Act to any owner if such owner has been convicted of any offence against this Act or the regulations or against the *Stock Diseases Act 1958* or the *Milk and Dairy Supervision Act 1958* or the regulations under either of the said Acts or against Part XV. of the *Health Act 1958* or the regulations under the said Part.

If disease in localized form. No. 3651 s. 8.

8. Notwithstanding anything in any Act when cattle are affected only with a localized form of disease an inspector of stock, instead of forthwith destroying the cattle or ordering the same to be destroyed in accordance with the requirements of any Act or the regulations thereunder, may in his discretion require the owner to retain such cattle under such conditions as are prescribed.

Person trafficking in diseased cattle with a view to compensation. No. 3651 s. 9.

9. Every person who buys or sells or who attempts to buy or sell any cattle knowing or having reasonable cause to suspect such cattle to be diseased and with the intention (in the opinion of the court before whom he is charged) of making a claim or enabling any other person to make a claim for compensation therefor or in respect of the carcass of any portion of the carcass thereof shall be liable to a penalty of not less than Twenty-five pounds or more than One hundred pounds for every head of such cattle.

PART II.—CATTLE COMPENSATION FUND AND STAMP DUTIES.

Cattle Compensation Fund. No. 3651 s. 10.

10. (1) There shall be kept in the Treasury an account to be called the "Cattle Compensation Fund" (in this Act referred to as "the Fund").

Stamp duties &c. to be paid to credit of Fund.

- (2) To the credit of the Fund there shall be paid—
- (a) all sums of money received by or for the Comptroller of Stamps in respect of stamp duty on statements under this Act; and
 - (b) all penalties recovered under Part I. or Part III. of this Act.

Application of Fund.

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

(4) Any sum which the Treasurer of Victoria at any time certifies to be required for payment by way of compensation under this Act (so far only as the Fund is insufficient to pay any sum payable under this Act out of the Fund) shall be paid out of the Consolidated Revenue which is hereby to the necessary extent appropriated accordingly.

Payments
out of
Consolidated
Revenue if
necessary.

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

Recoup from
Fund.

11. There shall be charged for the use of Her Majesty her heirs and successors upon any instrument specified under Heading XVII. of the Third Schedule to the *Stamps Act* 1958 the duty specified under the said Heading XVII.

Amount of
duty.
No. 3651 s. 11;
No. 5204 s. 2.

12. (1) Every owner of cattle or his agent shall upon the sale thereof whether payment of the purchase money is or is not made in full at the time of the sale or is to be made by instalments or is otherwise deferred—

Statements to
be made out
on sale of
cattle and
stamps affixed.
No. 3651 s. 12;
No. 3880 s. 5.

- (a) write out or cause to be written out a statement setting forth the number of cattle so sold the amount of the purchase money in respect of each head of cattle and the date of the sale thereof;
- (b) affix to the said statement cattle duty stamps to the amount of the duty payable under this Act and cancel such stamps; and
- (c) give or by registered letter transmit the said statement to the purchaser within seven days of such sale.

(2) Without affecting his liability to pay the amount of any unpaid duty any owner or agent who contravenes or fails to comply with any of the provisions of this section shall be liable to a penalty of not more than Fifty pounds.

Penalty.

13. (1) The stamp duties on the said statements shall be denoted by adhesive stamps (referred to in this Act as "cattle duty stamps") issued by the Comptroller of Stamps.

Cattle duty
stamps issued
by Comptroller
of Stamps.
No. 3651 s. 13.

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

Cattle duty
stamps, how to
be marked.

Recovery of duty.

(3) Without prejudice to any other method of recovery any unpaid duty under this Part may be recovered by the Comptroller of Stamps or any person authorized in writing by him in a court of petty sessions as a civil debt recoverable summarily or in any court of competent jurisdiction.

Frauds.

(4) Without affecting the generality of section eleven every person who practises or is concerned in any fraudulent act contrivance or device not specially provided for by law with intent to defraud Her Majesty of any stamp duty under this Act shall be guilty of a misdemeanour and liable to imprisonment for a term of not more than twelve months.

Regulations as to statements and stamp duty thereon.
No. 3651 s. 14;
No. 5204 s. 2.

14. (1) The provisions of section one hundred and sixty-seven of the *Stamps Act* 1958 shall extend and apply to the making of regulations for or with respect to—

- (a) the stamping of statements under this Act and the stamps to be used therefor; and
- (b) all matters and things which with respect to any such statements or the stamp duty thereon or cattle duty stamps are by this Act required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act—

and to such regulations when made.

Penalties in regulations.

(2) Any such regulations may prescribe penalties of not more than Twenty pounds for any contravention of or failure to comply with such regulations.

PART III.—SUPPLEMENTARY.

Burden of proof.
No. 3651 s. 15.

15. In any proceedings against any owner or any agent for any contravention of or failure to comply with this Act or the regulations the burden of proof that the provisions of this Act or the regulations have been complied with by such owner or agent shall be on the defendant.

Penalty in cases not provided for.
No. 3651 s. 16.

16. Every person who is guilty of any contravention of or failure to comply with any of the provisions of this Act for which no penalty or other punishment is expressly provided or who permits any contravention of or failure to comply with the provisions of this Act shall be liable to a penalty of not more than Twenty pounds.

Time limit of prosecution.
No. 3880 s. 6.

17. Without prejudice to any proceedings for any indictable offence, an information for any other contravention of or failure to comply with—

- (a) any of the provisions of Part II. of this Act; or
- (b) the regulations under this Act—

may be laid at any time within three years from and after the date on which such contravention or failure occurred.

18. Subject to the Minister this Act except Part II. hereof shall be administered in the Department of Agriculture.

Administra-
tion of Act.
No. 3631 s. 17.

19. (1) The Governor in Council may make regulations for or with respect to—

Regulations.
No. 3631 s. 18.

- (a) the manner of making and dealing with and the verification of applications for compensation;
- (b) prescribing subject to this Act the form of any certificate to be issued by any inspector of stock or meat inspector or other officer (including any dairy supervisor or veterinary surgeon approved as aforesaid and any medical officer of health appointed as aforesaid) in respect of the destruction of any diseased cattle or any cattle suspected of 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) scale of compensation payable in respect of diseased carcasses or portions thereof;
- (d) the retention under this Act of cattle by the owner thereof when such cattle are affected with a localized form of disease only and the conditions of such retention;
- (e) safeguarding the Fund and the Consolidated Revenue from claims for compensation in respect of cattle or carcasses or portions thereof in cases where the cattle are diseased or suspected of being diseased when introduced or being introduced into Victoria whether by land sea or air; and generally preventing fraudulent or dishonest claims for compensation;
- (f) all matters and things necessary or convenient to be prescribed with respect to the Fund and the administration thereof;
- (g) forms for the purposes of this Act and the regulations;
- (h) prescribing penalties (of not more than Twenty pounds in any case) for any contravention of or failure to comply with the regulations; and
- (i) generally all matters and things which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to or carrying out this Act and guarding against evasions and violations thereof.

(2) All forms so prescribed or forms to the like effect may be used for the purposes of this Act and shall be sufficient in law.

Sufficiency
of forms.

Publication.

(3) All such regulations shall be published in the *Government Gazette* and shall be laid before both Houses of Parliament within fourteen days after the publication thereof if Parliament is then sitting and if Parliament is not then sitting then within fourteen days after the next meeting of Parliament.

Section 2.

SCHEDULE.

Number of Act.	Title of Act.	Extent of Repeal.
3651 ..	<i>Cattle Compensation Act 1928</i> ..	The whole.
3880 ..	<i>Cattle Compensation Act 1930</i> ..	The whole.
4215 ..	<i>Cattle and Swine Compensation Act 1934</i> ..	Part I.
4383 ..	<i>Cattle Compensation Act 1936</i> ..	The whole.
4893 ..	<i>Cattle and Swine Compensation Act 1942</i> ..	Part I.
5146 ..	<i>Cattle and Swine Compensation Act 1946</i> ..	Part I.
5204 ..	<i>Stamps Act 1946</i>	Item 2 of Part II. of First Schedule.
5489 ..	<i>Cattle Compensation Act 1950</i> ..	The whole.
