

FOOT AND MOUTH DISEASE ERADICATION FUND.

8° Elizabeth II., No. IV.

No. 4 of 1959.

AN ACT to provide for the establishment of a Foot and Mouth Disease Eradication Fund and for the compensation of owners of animals and property which may be destroyed in order to eradicate or prevent the spread of foot and mouth disease, and for other purposes.

[Assented to 7th September, 1959.]

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

1. This Act may be cited as the *Foot and Mouth Disease Eradication Fund Act, 1959.*

Short title
and citation.
Cf. Victorian
Act No. 6162,
s. 1.

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

Commence-
ment.

Interpreta-
tion.
Cf. Victorian
Act, No. 6162,
s. 2.

3. In this Act unless the context requires otherwise—

“animal” means any cattle, sheep, goat or swine;

“Fund” means the Foot and Mouth Disease Eradication Fund established under this Act;

Cf. 59 Vict.,
No. 34, s. 4.

“inspector” means the chief inspector, and every inspector appointed under the provisions of the Stock Diseases Act and every person authorised by the Governor to act as an inspector under that Act;

“owner” means any person other than a mortgagee not in possession having or claiming jointly or in severalty any right, title or interest to or in any animals or property and includes the authorised agent of the owner and in the case of a body corporate or unincorporate the manager, secretary or other controlling officer thereof;

“property” includes any building, fitting, appliance, fodder, farm or dairy produce, meat, skin, wool or other thing but does not include an animal which is destroyed under the provisions of the Stock Diseases Act or of this Act for the purpose of eradicating foot and mouth disease;

Cf. Acts 59
Vict., No. 34
and Nos. 12
of 1906 and
41 of 1954.

“Stock Diseases Act” means the Stock Diseases Act, 1895-1954.

Foot and
Mouth
Disease
Eradication
Fund.
Cf. Victorian
Act No.
6162, s. 3.
Payments
into Fund.
Cf. Victorian
Act No. 6162.
s. 4.

4. (1) The Treasurer shall cause a Trust Fund to be called the Foot and Mouth Disease Eradication Fund, to be established and kept at the Treasury.

(2) The Treasurer shall cause to be paid to the credit of the Fund—

(a) money payable to this State by the several States of the Commonwealth and by the Commonwealth in accordance with any arrangement made, whether before or after

the coming into operation of this Act, between this State, the Commonwealth, and the other States, for the control and eradication of foot and mouth disease;

- (b) the proceeds of the sale of stores and equipment sold under this Act; and
- (c) money appropriated by Parliament for the purposes of this Act.

(3) The Treasurer shall cause the Fund to be applied to the payment of—

Payments
out of Fund.
Cf. Victorian
Act No. 6162,
s. 5.

- (a) expenses directly connected with the control and eradication of foot and mouth disease except the salaries or wages of officers and employees of this State who are, or would be, employed irrespective of any outbreak of foot and mouth disease; and
- (b) compensation payable under this Act and all costs and expenses incidental to determining the compensation payable.

(4) The Fund may be operated upon in such manner only as from time to time the Treasurer approves and is hereby authorised to approve.

5. (1) Compensation is payable in accordance with, and subject to the provisions of this Act to the owner of—

Compensa-
tion.
Cf. Victorian
Act No. 6162,
s. 6.

- (a) any animal or property which is destroyed for the purpose of eradicating or preventing the spread of foot and mouth disease; and
- (b) any animal which is certified by an inspector as having died of foot and mouth disease and which at the time of its death was situated on land in quarantine at that time under the provisions of the Stock Diseases Act because of the existence thereon of foot and mouth disease.

Basis of
compensa-
tion.
Cf. Victorian
Act No. 6162,
s. 9.

(2) The compensation payable

(a) in the case of an animal—

(i) where the animal slaughtered or the dead animal was affected with foot and mouth disease—is the market value of the animal immediately before it became so affected; and

(ii) in every other case—is the market value of the animal immediately before it was slaughtered; and

(b) in the case of property destroyed—is its market value at the time of destruction.

(3) In determining the compensation to be paid under this Act no allowance for loss of profit, loss occasioned by breach of contract, loss of production or any other consequential losses shall be made.

(4) No compensation or only such part of the compensation otherwise payable as the Minister thinks reasonable shall be payable under this Act to any owner if after the coming into operation of this Act he has been convicted of an offence against this Act or the Stock Diseases Act or any other Act which is directly related to the control and eradication of foot and mouth disease.

Cf. e.g.,
Acts 52 Vict.,
No. 11, 59
Vict., No. 34
and Nos. 38
of 1942 and
27 of 1946.

(5) Notwithstanding the provisions of any other Act, no further compensation shall be paid by the Crown for any animal or property for which compensation has been or may be paid under this Act.

Claims for
compensa-
tion.
Cf. Victorian
Act No. 6162,
s. 7.

6. Compensation is not payable and shall not be paid under this Act in respect of any animal which has been destroyed or has died or any property which has been destroyed unless within sixty days of the destruction or death an application is lodged in the form and manner prescribed by the regulations, and the application gives the particulars, and is verified, as so prescribed.

7. The value of any animal or property for the purposes of this Act shall be determined by agreement between the owner and a stock inspector and in default of such agreement the value shall be determined either by some competent and impartial person nominated for the purpose by the Minister or if the claimant so requires by a magistrate to whom a Local Court is assigned and in either case the determination of such person or magistrate is final and conclusive.

Mode of
valuation of
animal or
property.
Cf. Victorian
Act, No. 6162,
s. 8.

8. A person who knowingly makes a false statement or who practises or is concerned in any fraudulent act with intent to mislead or defraud the Crown for the purpose of obtaining pecuniary benefit for himself or any other person under this Act or the regulations commits an offence.

Offence.
Cf. Victorian
Act No. 6162,
s. 10

Penalty: One hundred pounds.

9. On a date to be fixed by proclamation the Treasurer shall cause the Fund to be wound up on the following basis, namely

Power to
wind up
Fund.
Cf. Victorian
Act No. 6162,
s. 11.

- (a) money which is payable under the Act but which has not already been paid shall be retained for payment by the Minister;
- (b) if any undetermined claims are pending settlement, the Minister may retain sufficient sums to meet the claims, and costs and related expenses, as though in each case the claimant were awarded the full amount of his claim, but on the settlement of the claims, costs and expenses, any sums remaining shall be disbursed in accordance with paragraph (d) of this section;
- (c) stores and equipment purchased from the Fund shall be sold and the proceeds paid into the Fund: but with the approval of the Commonwealth and the several States which have contributed to the Fund, any of the stores and equipment purchased from

the Fund may be retained until such time as the Commonwealth and the several States determine that they shall be sold, when the proceeds of such sale shall be distributed as provided in paragraph (d) of this section; and

- (d) the balance of money remaining in the Fund shall be paid to the Commonwealth and the several States in the same proportion as the contributions made by them.

Saving of
operation of
Act 59 Vict.,
No. 34 as am.
Cf. Victorian
Act No. 6162,
s. 12.

10. Nothing in this Act or the regulations limits the operation of, or prevents any action under, the Stock Diseases Act, to eradicate or prevent the spread of foot and mouth disease.

Regulations
Cf. Victorian
Act No. 6162,
s. 13.

11. (1) The Governor may make such regulations as he considers necessary, convenient, or desirable, for carrying out the objects and purposes of this Act.

(2) Without prejudice to the generality of subsection (1) of this section,

- (a) regulations may be so made so as to apply generally, or in a particular class of case; at all times, or at a specified time, or specified times;
- (b) regulations may be so made so as to require any matter to which a regulation relates to be in accordance with a specified requirement, or as approved by, or to the satisfaction of, a specified person or body or specified class of person or body, or so as otherwise to delegate to, or confer on, a specified person or body or class of person or body a discretionary authority;
- (c) regulations may be so made as to impose for a breach of a regulation a maximum penalty of one hundred pounds; and

- (d) regulations may be so made for or with respect to
- (i) the seizure and destruction of any animal which is infected with foot and mouth disease or which may have been in contact with any animal suffering from foot and mouth disease;
 - (ii) the seizure and destruction of any property which may have been in contact with any animal infected with foot and mouth disease;
 - (iii) the regulating of the movement of persons, animals, and property, for the purpose of preventing foot and mouth disease;
 - (iv) the quarantining of any animals, property, or land;
 - (v) the taking of such other steps as may be deemed expedient to prevent the spread of foot and mouth disease and for its eradication;
 - (vi) the functions of inspectors including power to enter premises and inspect property and animals and to hindrance and obstruction of inspectors;
 - (vii) the fees payable under this Act or the regulations; and
 - (viii) the forms for use under this Act or the regulations.
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