

# FOOT AND MOUTH DISEASE COMPENSATION ORDINANCE 1958.\*

673

Amended 5/62  
4/66

## An Ordinance to provide Compensation for certain Losses occasioned by Foot and Mouth Disease.

1. This Ordinance may be cited as the *Foot and Mouth Disease Compensation Ordinance 1958*.\* Short title.

2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.† Commencement.

3. In this Ordinance, unless the contrary intention appears— Definitions.

“ animal ” means animal of the bovine species or camel, sheep, goat or swine;

“ Chief Inspector ” means the Chief Inspector of Stock holding office under the *Stock Diseases Ordinance 1954–1957* and includes a person exercising powers or functions delegated to him under that Ordinance;

“ fitting ” includes harness, saddlery and anything commonly used in the handling of animals;

“ fodder ” includes hay, straw, grass, grain and green crop;

“ inspector ” means a person appointed and holding office as an inspector under the *Stock Diseases Ordinance 1954–1957*.

4.—(1.) Where an inspector—

(a) has reasonable cause to believe that any animal, fodder or fitting is or has recently been suffering from or infected with foot and mouth disease; and

(b) in the exercise of a power under section forty-two of the *Stock Diseases Ordinance 1954–1957*, destroys or causes or orders the destruction of the animal, fodder or fitting, or the carcass or dung of the animal,

the owner of the animal, fodder, fitting, carcass or dung may, after the destruction, submit to the Chief Inspector a claim in accordance with the next succeeding section for compensation under this Ordinance.

(2.) For the purposes of this Ordinance an animal which dies on land which at the time of the death is in a quarantine area established under the *Stock Diseases Ordinance 1954–1957* in

Submission  
of claim for  
compensation.

\* No. 18, 1958; assented to by Administrator on 14th November, 1958.

† No date had been fixed up to 1st January, 1961.

order to prevent the spread of foot and mouth disease shall be deemed to have been destroyed immediately before the establishment of the quarantine area in the exercise of a power under section forty-two of that Ordinance by an inspector having reasonable cause to believe that the animal is or has recently been suffering from or infected with foot and mouth disease.

Form of claim.

5. A claim submitted under the last preceding section—

- (a) shall be in writing signed by the owner or a person authorized in writing by the owner to submit the claim; and
- (b) shall be accompanied by a declaration signed by the owner or the person signing the claim—
  - (i) as to the date and place of the destruction;
  - (ii) as to the amount of compensation claimed for each animal, fitting and carcass destroyed and for each quantity of fodder or dung separately destroyed;
  - (iii) as to whether an inspector did or caused or ordered the destruction;
  - (iv) that the person claiming compensation was the owner, at the time of the destruction, of the animal, fodder, fitting, carcass or dung in respect of which the claim is submitted or derives his claim to compensation from the person who was that owner; and
  - (v) as to any other matter prescribed.

Duties of Chief Inspector in relation to claim.

6.—(1.) Where a claim in accordance with the last preceding section has been submitted to the Chief Inspector, and the Chief Inspector is satisfied that—

- (a) all animals, fodder, fittings, carcasses and dung to which the claim relates have been destroyed;
- (b) the destruction was done, caused or ordered in the exercise of a power under the *Stock Diseases Ordinance 1954-1957* by an inspector having reasonable cause to believe that the animals, fodder, fittings, carcasses and dung were suffering from or infected with foot and mouth disease;
- (c) the person submitting the claim was the owner, at the time of the destruction, of the animals, fodder, fittings, carcasses and dung in respect of which the claim is submitted or derives his claim to compensation from that owner; and
- (d) in respect of any animal, fitting or carcass destroyed or any quantity of fodder or dung separately destroyed the amount of compensation claimed is not greater than the value specified in section ten of this Ordinance,

the Chief Inspector shall certify that the claim is payable.

(2.) If the Chief Inspector does not certify that a claim submitted under this Ordinance is payable he shall give notice in writing to the person submitting the claim that he has not certified the claim and shall state in the notice why he has not done so.

7.—(1.) The Chief Inspector may in writing request a person who has submitted a claim under this Ordinance to supply such further particulars in relation to the claim as the Chief Inspector thinks should be supplied to enable him to be satisfied on a matter specified in paragraph (a), (b), (c) or (d) of sub-section (1.) of the last preceding section.

Chief Inspector  
may require  
further  
particulars.

(2.) The Chief Inspector may refuse to certify a claim until he has received in writing signed by the person submitting the claim such further particulars as are requested under the last preceding sub-section and are, in his opinion, sufficient to enable him to be satisfied on a matter specified in paragraph (a), (b), (c) or (d) of the last preceding section.

8.—(1.) A person who has submitted a claim may appeal in accordance with this section against the refusal of the Chief Inspector to certify it.

Appeal.

(2.) If at the end of two months after the date on which the Chief Inspector receives—

- (a) a claim submitted under this Ordinance; or
- (b) such further particulars as he requests under section seven of this Ordinance,

whichever is the later, the Chief Inspector has not certified the claim, he shall be deemed to have refused to certify it.

(3.) The appeal may be brought—

- (a) in the Supreme Court; or
- (b) where the amount of the claim is such that a Local Court would have jurisdiction if the appeal were a personal action, in a Local Court.

(4.) The appeal shall be instituted by filing a notice of appeal in the office of the Court in which the appeal is brought and serving a copy of the notice on the Chief Inspector personally or by post.

(5.) The notice of appeal shall be filed and the copy served not later than two months after the date on which the Chief Inspector refuses, or is first deemed to have refused, to certify the claim.

(6.) The notice of appeal and the copy shall be entitled in the Court in which the appeal is brought and shall state the grounds relied on in support of the appeal.

(7.) The Court in which the appeal is brought shall hear the appeal and may—

- (a) dismiss the appeal or make an order that such compensation be paid as the Court thinks fit; and

*Foot and Mouth Disease Compensation Ordinance 1958.*

(b) make an order for the payment of such costs in the appeal as the Court thinks fit.

(8.) In making an order for the payment of costs in an appeal which is brought in the Supreme Court but which might have been brought in a Local Court, the Court shall consider whether or not—

- (a) the difficulty of the law;
- (b) the difficulty of the application of the law; or
- (c) the complexity of the facts,

involved in the appeal is such that the appellant is justified in bringing the action in the Supreme Court.

Certified claim to be paid.

9. Where under section six of this Ordinance the Chief Inspector has certified a claim to be payable the Administrator shall, subject to this Ordinance, cause the amount of the claim to be paid to the person submitting the claim.

Maximum amount of compensation payable.

10. The amount payable as compensation under this Ordinance for the destruction, under the *Stock Diseases Ordinance 1954-1957*, of any animal, fodder or fittings, or the carcass or dung of any animal, shall not exceed—

- (a) in the case of an animal destroyed after it became infected with foot and mouth disease, the value of the animal immediately before it became so infected; or
- (b) in any other case, the value which the animal, fodder, fitting, carcass or dung destroyed would have had immediately before the destruction if the animal, fodder, fitting, carcass or dung had not then been about to be destroyed in or as a result of the exercise of a power under the *Stock Diseases Ordinance 1954-1957* by an inspector having reasonable cause to believe that an animal was or had recently been suffering from foot and mouth disease.

No compensation for loss of profit, &c.

11. No compensation is payable under this Ordinance for—

- (a) loss occasioned by breach of contract;
- (b) loss of production; or
- (c) any other loss the amount of which is not included in the amount payable under the last preceding section.

No further compensation under other Ordinance for loss compensated under this Ordinance.

12. Notwithstanding the provisions of any other Ordinance, where the Administrator has caused compensation to be paid under this Ordinance for loss occasioned by the destruction of any animal, fodder, fitting, carcass or dung, the Commonwealth is not liable to pay any further compensation for loss occasioned by that destruction.

13. Notwithstanding section nine of this Ordinance, where a claim is submitted by a person who has been convicted of an offence against a provision relating to the control or eradication of foot and mouth disease in any Act or Ordinance, the Administrator may, in his discretion, refuse to cause any amount to be paid as compensation or cause to be paid as compensation such amount smaller than the amount of the certified claim as he thinks fit.

Administrator may refuse or reduce compensation in certain cases.

14. A person shall not, either orally or in writing, knowingly make an untrue statement in connexion with or in support of a claim for compensation under this Ordinance—

Penalty for untrue statement in claim.

- (a) in the claim;
- (b) in a declaration or in particulars under section five or seven of this Ordinance; or
- (c) to the Administrator or Chief Inspector.

Penalty: Three hundred pounds.

15. Nothing in this Ordinance shall operate to delay or prevent any action under the *Stock Diseases Ordinance 1954-1957* to eradicate or prevent the spread of foot and mouth disease.

Effect on action to prevent, &c., disease.

16. The Administrator may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance and in particular—

Regulations.

- (a) prescribing the method of making valuations;
- (b) prescribing procedures to be followed in respect of compensation; and
- (c) prescribing penalties not exceeding One hundred pounds for offences against the regulations.