



ANNO PRIMO

# EDWARDI VIII REGIS.

A.D. 1936.

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## No. 2329.

An Act to make provision for the payment of compensation to owners of swine in certain cases, and for other purposes.

[Assented to, 3rd December, 1936.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

### PART I. PRELIMINARY.

### PART I.

1. This Act may be cited as the "Swine Compensation Act, 1936". Short title.

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

3. The provisions of this Act are arranged as follows :— Arrangement.

PART I.—Preliminary.

PART II.—Swine compensation.

PART III.—Swine compensation fund and stamp duties.

PART IV.—Miscellaneous.

4. In this Act, unless the context otherwise requires— Interpretation.

“carcass” means the carcass of a pig :

## PART I.

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- “ chief inspector ” means the Chief Inspector of Stock under the Stock and Poultry Diseases Act, 1934 :
- “ disease ” means tuberculosis, swine fever, swine plague, swine erysipelas, and swine paratyphoid (*necrotic enteritis*) :
- “ fund ” means the Swine Compensation Fund :
- “ inspector ” means an inspector of stock under the Stock and Poultry Diseases Act, 1934 :
- “ market value ” of a pig means the value of the pig calculated as upon a sale with delivery at the place where the pig is when ordered to be destroyed :
- “ owner ” includes the authorised agent of the owner :
- “ pig ” means any boar, sow, barrow, or sucker.

## PART II.

## PART II.

## SWINE COMPENSATION.

Compensation payable to owners of pigs.  
Cf. Vic., 3784, 1928, s. 5.

5. Compensation shall be payable under this Act in the cases and to the extent and subject to the conditions hereinafter provided—

- (a) to the owner of any pig destroyed by or by order of an inspector pursuant to any Act or any regulation or proclamation under any Act, because the pig is suffering from or is suspected of suffering from disease :
- (b) to the owner of any carcass or portion of a carcass, which is pursuant to any Act or any regulation or proclamation under any Act at any abattoir or slaughter-house condemned as unfit for human consumption, because of disease, by an inspector or any other person authorised by any such Act, regulation, or proclamation :
- (c) to the owner of any pig destroyed with the consent of the chief inspector, because the pig is suffering from or is suspected of suffering from disease.

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## PART II.

**6.** (1) Subject to this Act, the amount of compensation payable pursuant to this Act in respect of a pig ordered to be destroyed because the pig is suffering from or suspected of suffering from disease, shall be—

Amount of compensation.  
Vic., 3784,  
1928, s. 6.

- (a) if after destruction the pig is found to be free from disease—the market value (subject to such deductions as are hereinafter in this Act specified) of the pig; and
- (b) if after destruction, the pig is found to be diseased—seven-eighths of the market value (subject to such deductions as are hereinafter in this Act specified) of the pig:

Provided that in no case shall the market value of one pig for the purposes of this Act be deemed to be more than fifteen pounds.

(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.

**7.** (1) The value of any pig so destroyed, or any carcass or portion thereof so condemned, shall be determined by agreement between the owner thereof and the inspector or other person under whose authority the pig was destroyed, or such carcass or portion thereof condemned, as the case may be. 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 value of pig, &c., destroyed as diseased.  
Vic., 3784,  
1928, s. 7.

(2) The residual value of any pig 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.

**8.** (1) No compensation under this Act shall be payable unless the owner of the pig 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.  
Cf. Vic.,  
3784, 1928,  
s. 8.

(2) The owner shall forward with the application a certificate (containing the prescribed particulars) to be furnished by the inspector who destroyed or ordered the destruction of the pig, or the inspector or other person who condemned the carcass or any portion thereof.

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(3) No compensation under this Act shall be payable unless the application for compensation is made by the owner within twenty-one days after the destruction of the pig, or the condemnation of the carcass or portion thereof.

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

(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 pig visibly affected with tuberculosis has failed to give notice pursuant to section 19 of the Stock and Poultry Diseases Act, 1934 ; or

(c) unless the chief inspector is satisfied—

(i.) that all swine stamp duty (if any) payable under this Act by the owner claiming compensation in respect of all pigs of the said owner has been paid ; 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 pig introduced into South Australia, whether by sea or land, which is destroyed because the pig is suffering from or suspected of suffering from swine fever, if the pig is so destroyed within one month after the introduction of the pig, unless the chief inspector is satisfied that the pig became so diseased after being introduced, or unless the pig is found to be free from disease.

Compensation  
for pig  
destroyed in  
another State.

9. If the Minister is satisfied—

(a) that any pig was sold in this State and that all swine stamp duty in respect of the sale has been paid ; and

(b) that the pig was destroyed in another State of Australia because the pig was suffering from or was suspected of suffering from disease or that the carcass of the pig was condemned as unfit for human consumption because of disease ; and

(c) that the pig was so destroyed or the carcass so condemned pursuant to any provision of any Act or law in force in such other State ; and

(d) upon the certificate of some competent officer of the Government of such other State that the pig was destroyed or carcass condemned as aforesaid,

the Minister may direct that compensation pursuant to this Act shall be paid to the owner of the pig or carcass and compensation shall be payable accordingly.

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## PART II.

10. Notwithstanding anything in any Act, when a pig is affected only with a localised form of disease, an inspector instead of forthwith destroying the pig, 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 the pig under such conditions as are prescribed.

If disease is in localised form.

Vic. 3784, 1928, s. 9.

11. Any person—

- (a) who buys or sells or who attempts to buy or sell any pig knowing or having reasonable cause to suspect the pig to be diseased, and with the intention (in the opinion of the court before which 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 or any portion of the carcass thereof; or
- (b) who buys or sells or who attempts to buy or sell any carcass or any portion thereof knowing or having reasonable cause to suspect the carcass or portion thereof to be diseased with the intention (in the opinion of the court before which he is charged) of making a claim or enabling any other person to make a claim for compensation in respect of the carcass or any portion thereof,

Person trafficking in diseased pigs or carcasses with a view to compensation.  
Vic., 3784, 1928, s. 10.

shall be guilty of an offence against this Act and liable to a penalty of not more than twenty-five pounds for every such pig, or (as the case may be), for every such carcass or portion thereof.

## PART III.

## PART III.

## SWINE COMPENSATION FUND AND STAMP DUTIES.

12. (1) There shall be established and kept in the Treasury an account to be called the "Swine Compensation Fund".

Establishment of Swine Compensation Fund.

(2) To the credit of the fund there shall be paid—

Cf. Vic. 3784, 1928, s. 11.

(a) all sums of money received by or for the Commissioner of Stamps in respect of swine stamp duty on statements under this Act; and

(b) all penalties recovered under this Act.

(3) The fund shall, subject to this Act, be applied to the payment pursuant to this Act of claims for compensation.

## PART III.

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Statements to be made out on sale of pigs and stamps affixed.

Vic., 3784, 1925, s. 13.  
Vic., 3881, 1930, s. 5.

**13.** (1) Every owner of pigs or the agent of any such owner 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—

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

(2) Without affecting his liability to pay the amount of any unpaid duty, every owner or agent who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding fifty pounds.

(3) This section shall only apply to a sale of a pig by auction or where the pig is sold to any person for the purpose of being slaughtered.

Duty on sales of pigs.  
Cf. Vic., 3775, 1928.  
Third Schedule, par. XIV.  
Vic., 3881, 1930, s. 3.

**14.** (1) There shall be payable in respect of every sale of any pig the stamp duties provided by this section by means of stamps affixed to the statement required under section 12.

(2) For every ten shillings or part of ten shillings—

- (a) of the amount of the purchase-money in respect of one pig sold singly ; or
- (b) of the total amount of the purchase-money in respect of any number of pigs sold in one lot,

there shall be payable a stamp duty of one penny : Provided that the stamp duty in respect of the amount of the purchase-money of any one pig, whether sold singly or as part of a lot, shall not exceed two shillings and six pence.

(3) The duty hereby imposed shall be in addition to any other duty required to be paid under the Stamp Duties Act, 1923.

Swine duty stamps issued by Commissioner of Stamps.  
Cf. Vic., 3784, 1928, s. 14.

**15.** (1) Stamp duties under this Act on the said statements shall be denoted by adhesive stamps (referred to in this Act as “ swine duty stamps ”) issued by the Commissioner of Stamps.

(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 “ swine stamp duty ” are printed on and form part of the stamp.

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PART III.

(3) Without prejudice to any other method of recovery, any unpaid duty under this Act may be recovered by the Commissioner of Stamps in any court of competent jurisdiction.

(4) Subject to this Act, the provisions of the Stamp Duties Act, 1923, and any regulations thereunder, shall, with such alterations, modifications, and substitutions as are necessary, extend and apply with respect to swine duty stamps.

(5) Without affecting the generality of the last preceding subsection, every person who practises or is concerned in any fraudulent act, contrivance, or device not specially provided for by law with intent to defraud His Majesty of any stamp duty under this Act, shall be guilty of a misdemeanour and liable to imprisonment for any term not exceeding twelve months.

## PART IV.

PART IV.

## MISCELLANEOUS.

16. The Governor may make regulations for or with respect to—

Regulations.  
Vic., 3784,  
1928, 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 or other person in respect of the destruction of any diseased pigs or any pigs 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) scales of compensation payable in respect of diseased carcasses or portions thereof ;
- (d) the retention under this Act of pigs by the owner thereof, when the pigs are affected with a localised form of disease only and the conditions of such retention ;
- (e) safeguarding the fund from claims for compensation in respect of pigs or carcasses or portions thereof in cases where the pigs are diseased or suspected of being diseased, when introduced or being introduced into South Australia, whether by land or sea ; and generally preventing fraudulent or dishonest claims for compensation ;

## PART IV.

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- (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.

Costs of administration of Act.

**17.** The costs of the administration of this Act shall be paid out of the fund.

Penalty on persons making charges, &c., for insurance purposes on sale of pigs.  
Vic., 3784, 1928, s. 20.

**18.** If on the sale of any pig (whether sold singly or as part of a lot) to any person, any such 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 the pig before it reaches the premises of the purchaser or by reason of any disease in or injury to the pig, the said person or agent shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred pounds.

Conditions inconsistent herewith in contracts to be inoperative.  
Vic., 3784, 1928, s. 21.

**19.** Any condition, express or implied, in any contract or agreement, providing for making any charge or deducting any amount which would, if made or deducted after the commencement of this Act, be an offence hereunder—

- (a) shall, if made after the said commencement, be void and of no effect ; or
- (b) shall, if made before the said commencement, cease to have any further force, operation, or effect as on, from, and after the said commencement.

Summary proceedings.

**20.** All proceedings for offences against this Act (not being misdemeanours) shall be disposed of summarily.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

W. DUGAN, Governor.