

South Australia

## **Primary Industry Funding Schemes (Cattle Industry Fund) Regulations 2000**

under the *Primary Industry Funding Schemes Act 1998*

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### **Contents**

#### Part 1—Preliminary

- 1 Short title
- 3 Interpretation

#### Part 2—South Australian Cattle Industry Fund

- 4 Establishment of Fund
- 5 Consultative committee to advise on application of Fund
- 6 Contributions to Fund
- 6A Refunds
- 7 Application of Fund

#### Part 3—Compensation scheme

- 8 Claim for compensation
- 9 Sale of carcass of destroyed animal
- 10 Amount of compensation
- 11 Procedure for claiming compensation and determination of claim

#### Part 4—Miscellaneous

- 12 False or misleading statements

#### Legislative history

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### **Part 1—Preliminary**

#### **1—Short title**

These regulations may be cited as the *Primary Industry Funding Schemes (Cattle Industry Fund) Regulations 2000*.

#### **3—Interpretation**

- (1) In these regulations, unless the contrary intention appears—

*Act* means the *Primary Industry Funding Schemes Act 1998*;

*authorised supplier* means—

- (a) an authorised manufacturer within the meaning of Part 6 of the Livestock Regulations; or

- (b) an authorised recycler within the meaning of Part 6 of the Livestock Regulations;

**bobby calf tag** means a transaction tag of a kind approved under the Livestock Regulations by the Chief Inspector as a bobby calf tag;

**carcass** of an animal includes the hide of the animal;

**cattle** includes buffalo;

**Chief Inspector** means the Chief Inspector of Stock appointed under the *Livestock Act 1997*;

**consultative committee**—see regulation 5;

**compensable disease** means—

- (a) Bovine brucellosis; or  
(b) Bovine Johne's disease; or  
(c) Tuberculosis;

**Fund**—see regulation 4;

**inspector** means an inspector appointed under the *Livestock Act 1997*;

**Livestock Regulations** means the *Livestock Regulations 1998* (see *Gazette 22.1.1998 p288*), as varied;

**owner** of cattle means a person who owns or is entitled to possession of the cattle (whether alone or jointly or severally with others);

**net proceeds**, in relation to the sale of the carcass of an animal, means the gross proceeds of the sale less any expenses incurred in relation to transportation and slaughter of the animal and sale of the carcass of the animal;

**permanent identification device** has the same meaning as in Part 6 of the Livestock Regulations;

**quarter** means any period of 3 months commencing on 1 January, 1 April, 1 July or 1 October;

**transaction tag** has the same meaning as in the Livestock Regulations.

- (2) For the purposes of these regulations, a person is in default in relation to contributions to the Fund if, within the immediately preceding 5 financial years—
- (a) all or some of the contributions payable to the Fund by the person have not been paid; or
- (b) the person has been refunded a contribution from the Fund.

## Part 2—South Australian Cattle Industry Fund

### 4—Establishment of Fund

- (1) The *South Australian Cattle Industry Fund* (the **Fund**) is established.
- (2) The Fund will be administered by the Minister.

- (3) The Fund consists of—
- (a) the amount in the Cattle Compensation Fund on the repeal of the *Cattle Compensation Act 1939* paid into the Fund under the Livestock Regulations; and
  - (b) contributions paid or collected in accordance with these regulations; and
  - (c) net proceeds of sales paid into the Fund under Part 3; and
  - (d) income of the Fund from investment; and
  - (e) any other money received by the Minister for payment into the Fund.

### **5—Consultative committee to advise on application of Fund**

The Cattle Advisory Group, established by the Minister under Part 2 of the *Livestock Act 1997* to represent the cattle industry, will be the consultative committee to advise the Minister in relation to the application of the Fund.

### **6—Contributions to Fund**

- (1) The following contributions are payable by a person who purchases transaction tags or permanent identification devices to the authorised supplier of the tags or devices (as collecting agent for the Minister) not later than the earlier of one month after the supply of the tags or devices or the date of payment for the tags or devices:
- (a) \$1.00 per bobby calf tag;
  - (c) 50 cents per permanent identification device.
- (2) An authorised supplier must—
- (a) within 14 days after the end of each quarter, furnish the Minister with a financial statement relating to the transaction tags and permanent identification devices sold during that quarter that—
    - (i) is in the form, and contains the information, required by the Minister; and
    - (ii) is, if the supplier has the necessary equipment, in an electronic form acceptable to the Minister; and
  - (b) receive and forward to the Minister, with the quarterly financial statement required by paragraph (a), the amount paid to the supplier by way of contributions by the purchasers of transaction tags or permanent identification devices during the quarter to which the financial statement relates.
- (3) The money received by an authorised supplier by way of contributions paid by the purchasers of transaction tags or permanent identification devices is held on trust for the Minister and must be paid by the supplier into an ADI account—
- (a) that is separate from all other ADI accounts operated by the supplier and into which no other money is paid; and
  - (b) from which the supplier must not make any withdrawal other than for the purpose of forwarding contributions to the Minister or applying (for the supplier's benefit) any surplus that may accrue to the account by way of interest (after deduction of charges associated with the maintenance of the account and any government charges in relation to the account).

- (4) An authorised supplier must make all records relating to the ADI account referred to in subregulation (3) available for inspection at any reasonable time by a person authorised by the Minister for the purpose.
- (5) An authorised supplier who contravenes this regulation is guilty of an offence.  
Maximum penalty: \$5 000.
- (5a) The Minister will, on application by a person who has paid contributions in respect of a transaction tag, refund the amount of the contributions to the person if—
- (a) the Minister is satisfied that the person claiming the refund paid the contributions; and
  - (b) either—
    - (i) the tag is unused and given to the Minister; or
    - (ii) the Minister is satisfied that the tag has been attached to an animal already identified with a permanent identification device.

## **6A—Refunds**

- (1) A person may make a claim for a refund in respect of contributions paid by the person during the financial year immediately preceding the financial year in which the person makes the claim.
- (2) If a person, by notice in writing given to the Minister, requests the Minister to refund contributions paid by the person, the Minister must, on being satisfied that the person paid the contributions, pay to the person an amount determined in accordance with the following formula:

$$R = Ct + \left( C1 + \frac{C2}{2} + \frac{C3}{3} + \frac{C4}{4} \right) \times I$$

where—

**R** is the total amount of the refund;

**Ct** is the total amount of contributions paid by the person during the financial year immediately preceding the financial year in which the person makes the claim;

**C1** is the contribution paid by the person during the first quarter of that financial year;

**C2** is the contribution paid by the person during the second quarter of that financial year;

**C3** is the contribution paid by the person during the third quarter of that financial year;

**C4** is the contribution paid by the person during the fourth quarter of that financial year;

**I** is the annual short term interest rate for that financial year (as published by the Reserve Bank of Australia) expressed as a percentage.

## **7—Application of Fund**

- (1) The Fund may be applied by the Minister for any of the following purposes:
- (a) payment of outstanding claims for compensation made or pending against the Cattle Compensation Fund under the repealed *Cattle Compensation Act 1939*;

- (b) payment of compensation and other amounts under Part 3;
  - (c) the undertaking of programs relating to cattle, cattle products or any other aspect of the cattle industry recommended to the Minister by the consultative committee;
  - (d) repayment of contributions to the Fund under regulation 6;
  - (e) payment of the reasonable operating and management expenses of the Cattle Advisory Group (whether sitting as the Cattle Advisory Group under the *Livestock Act 1997* or as the consultative committee under these regulations);
  - (f) payment of the expenses of administering the Fund (including expenses incurred in assessing compensation payable under these regulations and expenses incurred by an inspector under regulation 9 if those expenses exceed the proceeds of sale obtained under that regulation).
- (2) A person who is in default in relation to contributions to the Fund is not entitled to receive any direct benefit or service under a program funded under subregulation (1)(c).

## **Part 3—Compensation scheme**

### **8—Claim for compensation**

- (1) Subject to these regulations, the owner of cattle destroyed in accordance with a notice or order issued under Division 4 of Part 4 of the *Livestock Act 1997*, or by action taken or caused to be taken by an inspector under that Division, for the purposes of controlling or eradicating a compensable disease may claim compensation.
- (2) Only one claim may be made in respect of an animal.

### **9—Sale of carcass of destroyed animal**

If a notice or order is issued or action taken or caused to be taken in relation to an animal as referred to in regulation 8(1), the following provisions apply:

- (a) an inspector may give the owner of the animal written notice requiring the owner to assign the animal to the Minister;
- (b) if such a notice is given, a claim for compensation cannot be made under these regulations unless the owner complies with the notice;
- (c) if the owner of the animal assigns the animal to the Minister—
  - (i) an inspector must ensure that the animal is destroyed;
  - (ii) an inspector may sell or otherwise dispose of the carcass of the animal as the inspector considers appropriate;
  - (iii) the net proceeds of the sale (if any) must be paid into the Fund;
  - (iv) if the owner of the animal makes a claim for compensation under these regulations and the net proceeds of the sale exceed the amount of compensation paid in respect of the animal under these regulations, the excess must be paid from the Fund to the owner;

- (v) if no claim for compensation under these regulations is made in respect of the animal during the period allowed by these regulations, the amount of the net proceeds of the sale must be paid from the Fund to the owner of the animal.

## **10—Amount of compensation**

- (1) Subject to this regulation, the amount of compensation that may be claimed is as follows:
  - (a) for an animal destroyed for the purpose of controlling or eradicating Bovine brucellosis or Tuberculosis—the lesser of—
    - (i) \$2 000; or
    - (ii) the value of the animal immediately prior to its destruction;
  - (b) for an animal destroyed for the purpose of controlling or eradicating Bovine Johne's disease—
    - (i) if the Minister is satisfied that the animal was visibly affected by the disease and that infection of the animal with the disease was confirmed by testing of a kind approved by the Minister—\$100;
    - (ii) in any other case—\$300.
- (2) If the animal was not assigned to the Minister or the animal was assigned to the Minister but the net proceeds of the sale of the carcass of the animal have been paid from the Fund to the owner of the animal under regulation 9(c)(v), the amount of compensation that may be claimed is reduced by the amount of the net proceeds (if any) of the sale of the carcass of the animal.
- (3) An animal is to be valued—
  - (a) as if it were unaffected by the compensable disease; and
  - (b) having regard to the value of comparable animals at the nearest most recent markets selling such animals, whether those markets are in the State or in any other State or Territory of the Commonwealth; and
  - (c) using a method of valuation determined by the Minister after consultation with the consultative committee.
- (4) Compensation may not include any amount for loss of profit or production, loss arising from breach of contract or other consequential loss.
- (5) If the owner of an animal has been paid compensation or is entitled to compensation in respect of the animal under any other law, the amount of compensation that may be claimed under these regulations is reduced by the amount so paid or to which the owner is so entitled.

## **11—Procedure for claiming compensation and determination of claim**

- (1) A claim for compensation must be made to the Chief Inspector within one month after the issuing of the notice or order for destruction of the animal or the destruction of the animal by the inspector (as the case requires).
- (2) The Chief Inspector may, if satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that a claim be made within the period fixed by this regulation.

- (3) A claim for compensation must be made in the form and contain or be accompanied by the information required by the Chief Inspector (including, if the animal was not assigned to the Minister, information relating to the proceeds (if any) of the sale of the carcass of the animal).
- (4) The Chief Inspector may, with the approval of the Minister, determine that no compensation, or a reduced amount of compensation, is payable to a claimant if the Chief Inspector is satisfied that—
  - (a) the animal was visibly affected by the compensable disease and the owner failed to notify an inspector of that fact; or
  - (b) the owner failed to carry out any written direction of an inspector for the control or eradication of the compensable disease and that the failure was a probable cause of the animal being affected by the disease; or
  - (c) the owner failed to take reasonable steps to minimise the risk of cattle affected with the compensable disease being introduced into the owner's herd or the cattle otherwise becoming affected by the compensable disease; or
  - (d) the animal was destroyed within three months of being introduced into South Australia and was likely to have been affected by the compensable disease when so introduced; or
  - (e) the owner is in default in relation to contributions to the Fund.
- (5) Before the Minister gives approval under subregulation (4), the Minister must consult the consultative committee.
- (6) The Chief Inspector must, by written notice, inform the claimant, the Minister and the consultative committee of the Chief Inspector's determination of the claim.
- (7) The claimant may, within one month after receiving notice of the amount of compensation to be paid, object in writing to the Minister to the proposed amount on the grounds set out in detail in the objection.
- (8) If an objection is not made within the time allowed, the claimant's entitlement to compensation is finally determined for the purposes of these regulations.
- (9) If an objection to a proposed amount of compensation is made, the Minister may, after consulting the consultative committee—
  - (a) affirm the decision against which the objection is made; or
  - (b) rescind the decision and substitute a decision that the Minister considers appropriate.
- (10) A decision of the Minister after consideration of an objection is final and without appeal.

## **Part 4—Miscellaneous**

### **12—False or misleading statements**

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in information provided, or record kept, for the purposes of these regulations.

Maximum penalty: \$5 000.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2000	144	<i>Gazette 22.6.2000 p3374</i>	1.7.2000: r 2
2005	40	<i>Gazette 19.5.2005 p1319</i>	19.5.2005 except Pt 3 (r 6)—1.7.2005: r 2
<b>2008</b>	<b>316</b>	<b><i>Gazette 18.12.2008 p5693</i></b>	<b>18.12.2008: r 2</b>

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>19.5.2005</i>
<b>r 3</b>		
<b>r 3(1)</b>	<b>r 3 redesignated as r 3(1) by 316/2008 r 4(2)</b>	<b>18.12.2008</b>
<b>compensable disease</b>	<b>varied by 316/2008 r 4(1)</b>	<b>18.12.2008</b>
<b>r 3(2)</b>	<b>inserted by 316/2008 r 4(2)</b>	<b>18.12.2008</b>
Pt 2		
r 6		
r 6(1)	varied by 40/2005 r 4(1), (2) (b) deleted by 40/2005 r 6	19.5.2005 1.7.2005
r 6(5a)	inserted by 40/2005 r 4(3)	19.5.2005
r 6(6) and (7)— see r 6A(1) and (2)		
r 6A		
r 6A(1)	r 6(6) redesignated as r 6A(1) by 40/2005 r 4(4)	19.5.2005
r 6A(2)	r 6(7) redesignated as r 6A(2) by 40/2005 r 4(4)	19.5.2005
r 7		

r 7(1)	r 7 redesignated as r 7(1) by 40/2005 r 5	19.5.2005
r 7(2)	inserted by 40/2005 r 5	19.5.2005
	<b>substituted by 316/2008 r 5</b>	<b>18.12.2008</b>
<b>Pt 3</b>		
<b>r 10</b>		
r 10(1)	<b>substituted by 316/2008 r 6</b>	<b>18.12.2008</b>
<b>r 11</b>		
r 11(4)	<b>varied by 316/2008 r 7</b>	<b>18.12.2008</b>
	<b>(f) deleted by 316/2008 r 7</b>	<b>18.12.2008</b>

### Historical versions

19.5.2005

1.7.2005