

South Australia

Primary Industry Funding Schemes (Pig Industry Fund) Regulations 2001

under the *Primary Industry Funding Schemes Act 1998*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Primary Industry Funding Schemes (Pig Industry Fund) Regulations 2001*.

2—Commencement

These regulations will come into operation on 1 October 2001.

3—Interpretation

- (1) In these regulations, unless the contrary intention appears—
Act means the *Primary Industry Funding Schemes Act 1998*;
Chief Inspector means the Chief Inspector appointed under the *Livestock Act 1997*;

collection agent means—

- (a) for a pig that is sold by a stock agent—the stock agent; or
- (b) for a pig that is sold to a person who operates an abattoir by a person other than a stock agent—the person who operates the abattoir;

consultative committee—see regulation 5;

Fund—see regulation 4;

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

owner of a pig does not include a mortgagee not in possession;

pig producer means a person who carries on a business involving keeping pigs;

prescribed period means—

- (a) in respect of contributions paid on behalf of a pig producer by a collection agent—each calendar month;
- (b) in respect of contributions paid directly by a pig producer—each quarter;

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

- (2) A pig producer is in default in relation to contributions to the Fund if, within the immediately preceding five financial years—
 - (a) all or some of the contributions payable to the Fund in respect of pigs sold by the producer have not been paid; or
 - (b) the producer has been refunded contributions from the Fund.

Part 2—Pig Industry Fund

4—Pig Industry Fund

- (1) The *South Australian Pig 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 Swine Compensation Fund on the repeal of the *Swine Compensation Act 1936* paid into the Fund under the *Livestock Regulations 1998* (see *Gazette 22.1.1998 p288*), as varied; and
 - (b) contributions paid or collected in accordance with these regulations; and
 - (c) income of the Fund from investment; and
 - (d) any other sums received by the Minister for payment into the Fund.

5—Consultative committee to advise on application of Fund

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

6—Contributions to Fund

- (1) Subject to subregulation (2), a pig producer must pay to the Minister for payment into the Fund a contribution of 20 cents per pig sold for \$20 or more by the producer (whether within or outside this State).
- (2) If there is a collection agent in respect of the pig, the collection agent must pay the contribution on behalf of the pig producer.
- (3) The relevant collection agent or, in respect of a pig for which there is no collection agent, the pig producer must—
 - (a) keep proper records relating to pigs sold by the person (either as principal or agent) or to the person (as the case requires) and the contributions required to be made in respect of those pigs; and
 - (b) make those records available for inspection at any reasonable time by a person authorised by the Minister for the purpose.
- (4) The relevant collection agent or, in the case of a pig for which there is no collection agent, the pig producer must—
 - (a) within 14 days after the end of each prescribed period, furnish the Minister with a financial statement relating to the contributions arising from the sale of pigs by the person (either as principal or agent) or to the person (as the case requires) during that period that—
 - (i) is in the form, and contains the information, required by the Minister; and
 - (ii) is, if the person has the necessary equipment, in an electronic form acceptable to the Minister; and
 - (b) receive and forward to the Minister, with the periodic financial statement required by paragraph (a), the required contributions for pigs sold by the producer during the period to which the financial statement relates.
- (5) A pig producer may, by notice in writing to the Minister, within the 12 months following a financial year in respect of which contributions have been paid by or on behalf of the producer, make a claim for a refund in respect of those contributions.
- (6) A pig producer claiming a refund under subregulation (5) must supply the Minister with—
 - (a) evidence acceptable to the Minister of the number of pigs sold by the producer for which contributions have (to the best of the pig producer's knowledge and belief) been paid and in respect of which a claim for refund is made; and
 - (b) verification of that evidence in the form of a statutory declaration.
- (7) If the pig producer satisfies the Minister that the producer is entitled to a refund, the Minister must pay to the producer an amount determined in accordance with the following formula:

$$R = C_t + (C_1 + C_2 \times \frac{9}{12} + C_3 \times \frac{6}{12} + C_4 \times \frac{3}{12}) \times I$$

where—

R is the total amount of the refund;

C_t is the total amount of contributions paid during the financial year immediately preceding the financial year in which the producer claims the refund in respect of the pigs sold by the producer;

C_1 is the contribution paid during the first quarter of that financial year in respect of pigs sold by the producer;

C_2 is the contribution paid during the second quarter of that financial year in respect of pigs sold by the producer;

C_3 is the contribution paid during the third quarter of that financial year in respect of pigs sold by the producer;

C_4 is the contribution paid during the fourth quarter of that financial year in respect of pigs sold by the producer;

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

7—Application of Fund

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 Swine Compensation Fund under the repealed *Swine Compensation Act 1936*;
- (b) payments of compensation under Part 3;
- (c) the undertaking of research, investigative or other programs relating to pigs, pig products or any other aspect of the pig 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 Pig Industry Advisory Group (whether sitting as the Pig Industry Advisory Group under the *Livestock Act 1997* or as the consultative committee under these regulations);
- (f) payment of the expenses of administering the Fund.

8—Exclusion from benefits of person in default in relation to contributions

A person who is in default in relation to contributions to the Fund may not receive direct benefits or services funded by payments from the Fund.

Part 3—Compensation scheme

9—Declarations by notices in Gazette

- (1) For the purposes of this Part, the Minister may—
 - (a) by notice in the Gazette—
 - (i) declare a disease to be a *declared compensable disease*; and

- (ii) declare a period to be the *declared period* in relation to a declared compensable disease (and such a period may commence on a day specified in the notice and end on a day to be specified by subsequent notice in the Gazette); and
 - (b) by the same or a subsequent notice in the Gazette, declare an amount to be the *declared amount of compensation* payable per pig in respect of the declared compensable disease and declared period (which amount may vary according to the class of pigs concerned or any other factor).
- (2) Before publishing a notice in the Gazette under subregulation (1), the Minister must consult the consultative committee.
- (3) The Minister may defer declaring a declared amount of compensation payable per pig in respect of a declared compensable disease and declared period until after the time allowed for claims for such compensation.

10—Claims for compensation from Fund

- (1) The following persons may claim compensation under this Part:
 - (a) an owner of pigs 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 purpose of controlling or eradicating a declared compensable disease during a declared period;
 - (b) an owner of pigs certified by an inspector as having died of a declared compensable disease and as being pigs that would have, had they not died, been destroyed for the purposes of controlling or eradicating the declared compensable disease during the declared period.
- (2) A claim for compensation must—
 - (a) be made to the Chief Inspector within one month after the end of the declared period; and
 - (b) be in the form and contain or be accompanied by the information required by the Chief Inspector.
- (3) A claim that is not made within the time allowed is barred, unless the Chief Inspector, on application and with the approval of the Minister, otherwise determines.
- (4) The amount of compensation payable is the declared amount of compensation in respect of the declared compensable disease and declared period.
- (5) A person who was, at the time of the death or destruction of the pig in respect of which a claim for compensation is made, in default in relation to contributions to the Fund is not entitled to compensation under this Part (but the Chief Inspector may, with the approval of the Minister, exempt a person from the application of this subregulation if satisfied that the circumstances of the particular case justify the exemption).
- (6) 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 pig was visibly affected by the declared 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 declared compensable disease and that the failure was a probable cause of the pig being affected by the disease; or
 - (c) the owner failed to take reasonable steps to minimise the risk of pigs affected with the declared compensable disease being introduced into the owner's piggery or the pigs otherwise becoming affected by the declared compensable disease; or
 - (d) the pig was destroyed within three months of being introduced into South Australia and was likely to have been affected by the declared compensable disease when so introduced.
- (7) Before the Minister gives an approval for the purposes of this regulation, the Minister must consult the consultative committee.
- (8) If the owner of a pig has been paid compensation or is entitled to compensation in respect of the pig under any other law, the amount of compensation that may be claimed under this Part is reduced by the amount so paid or to which the owner is so entitled.
- (9) If a payment of compensation in respect of a pig is made to a claimant under these regulations, the Minister is, to the extent of the payment, subrogated to the rights of the claimant against a person liable to pay compensation in respect of the pig under any other law.
- (10) 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.
- (11) 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.
- (12) 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.
- (13) 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.
- (14) A decision of the Minister after consideration of an objection is final and without appeal.

Part 4—Miscellaneous

11—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

- 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.

Principal regulations

Year	No	Reference	Commencement
2001	196	<i>Gazette 23.8.2001 p3275</i>	1.10.2001: r 2