

SOUTH AUSTRALIA

CATTLE COMPENSATION ACT 1939

This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 1 January 1995.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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APPENDIX LEGISLATIVE HISTORY

CATTLE COMPENSATION ACT 1939

being

Cattle Compensation Act 1939 No. 15 of 1939
[Assented to 22 November 1939]¹

as amended by

Cattle Compensation Act Amendment Act 1948 No. 22 of 1948 [Assented to 2 December 1948]
Cattle Compensation Act Amendment Act 1951 No. 16 of 1951 [Assented to 4 October 1951]
Cattle Compensation Act Amendment Act (No. 2) 1951 No. 33 of 1951 [Assented to 6 December 1951]
Cattle Compensation Act Amendment Act 1954 No. 27 of 1954 [Assented to 2 December 1954]
Cattle Compensation Act Amendment Act 1962 No. 33 of 1962 [Assented to 8 November 1962]
Cattle Compensation Act Amendment Act 1964 No. 11 of 1964 [Assented to 10 September 1964]
Cattle Compensation Act Amendment Act 1965 No. 24 of 1965 [Assented to 25 November 1965]
Decimal Currency Act 1965 No. 60 of 1965 [Royal Assent proclaimed 4 February 1966]²
Cattle Compensation Act Amendment Act 1967 No. 33 of 1967 [Assented to 14 September 1967]
Cattle Compensation Act Amendment Act 1968 No. 22 of 1968 [Assented to 5 December 1968]
Cattle Compensation Act Amendment Act 1970 No. 27 of 1970 [Assented to 5 November 1970]
Cattle Compensation Act Amendment Act 1971 No. 77 of 1971 [Assented to 18 November 1971]³
Cattle Compensation Act Amendment Act 1972 No. 12 of 1972 [Assented to 30 March 1972]⁴
Cattle Compensation Act Amendment Act 1974 No. 22 of 1974 [Assented to 11 April 1974]⁵
Cattle Compensation Act Amendment Act 1976 No. 61 of 1976 [Assented to 18 November 1976]⁶
Cattle Compensation Act Amendment Act 1979 No. 71 of 1979 [Assented to 22 November 1979]⁷
Cattle Compensation Act Amendment Act 1986 No. 21 of 1986 [Assented to 20 March 1986]
Stock Act 1990 No. 62 of 1990 [Assented to 6 December 1990]⁸
Criminal Law Consolidation (Felonies and Misdemeanours) Amendment Act 1994 No. 59 of 1994 [Assented to 27 October 1994]⁹

¹ Came into operation 1 March 1940: *Gaz.* 15 February 1940, p. 369.

² Came into operation 14 February 1966: s. 2(2).

³ Came into operation 1 January 1972: *Gaz.* 23 December 1971, p. 2628.

⁴ Came into operation 1 July 1974: *Gaz.* 13 June 1974, p. 2332.

⁵ Came into operation 1 July 1974: s. 2.

⁶ Came into operation 20 January 1977: *Gaz.* 20 January 1977, p. 100.

⁷ Came into operation 22 November 1979: *Gaz.* 22 November 1979, p. 1309.

⁸ Came into operation 30 May 1991: *Gaz.* 23 May 1991, p. 1638.

⁹ Came into operation 1 January 1995: *Gaz.* 8 December 1994, p. 1942.

NOTE:

- Asterisks indicate repeal or deletion of text.
- For the legislative history of the Act see Appendix. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

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

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Cattle Compensation Act 1939*.

Commencement

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

Arrangement

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

PART 1—Preliminary.

PART 2—Cattle compensation.

PART 3—Cattle compensation fund and stamp duties.

PART 3A—Testing for tuberculosis.

PART 4—Miscellaneous.

Interpretation

4. (1) In this Act, unless the context otherwise requires—

"**carcass**" means the carcass, or any portion of the carcass, of any cattle;

"**cattle**" means any animal of the genus *bos* or any animal of the genus *bubalus*;

"**chief inspector**" means the Chief Inspector of Stock under the *Stock Diseases Act 1934-1962*;

"**the Committee**" means the Cattle Compensation Fund Advisory Committee;

"**disease**" means a state or condition declared by proclamation under section 4A of this Act to be a disease for the purposes of this Act;

"**fund**" means the Cattle Compensation Fund;

"**inspector**" means an inspector of stock under the *Stock Act 1990*;

"**market value**" of cattle means the value of the cattle calculated as if—

(a) the cattle were free from disease; and

(b) the cattle were sold and delivered to the purchaser—

(i) at the place where the cattle were when ordered to be destroyed or when consent for their destruction was given; or

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- (ii) where the cattle are taken by and at the expense of the owner of the cattle to abattoirs designated by the chief inspector or an inspector when ordering or consenting to their destruction—at the abattoirs where the cattle were destroyed;

"**Minister**" means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor;

"**owner**" includes the authorised agent of the owner.

(2) If any cattle are comprised in any stock mortgage or bill of sale, the mortgagor or grantor under the stock mortgage or bill of sale shall, until the cattle are taken into possession or sold by the mortgagee or grantee under the stock mortgage or bill of sale, be deemed to be the owner of the cattle for the purposes of this Act.

Proclamation of disease

4A. (1) The Governor may from time to time by proclamation declare any state or condition likely to affect cattle or to which cattle may be subject to be a disease for the purposes of this Act.

(2) The Governor may from time to time by proclamation declare that any state or condition likely to affect cattle or to which cattle may be subject shall cease to be a disease for the purposes of this Act and upon the publication of that proclamation that state or condition shall cease to be a disease as defined in subsection (1) of section 4 of this Act.

(3) At any time after a state or condition has, pursuant to a proclamation under this section, ceased to be a disease as defined in subsection (1) of section 4 of this Act, the Governor may by proclamation under subsection (1) of this section declare that state or condition to be a disease for the purposes of this Act.

Averaging

4B. For the purposes of the computation of stamp duty under this Act, where cattle or carcasses of cattle are sold in a lot, the purchase money in respect of each head of cattle or each carcass shall be deemed to be the quotient obtained by dividing the total purchase money in respect of that lot by the number of head of cattle or carcasses comprised in that lot, expressed to the nearest dollar, fifty cents or more being regarded as a whole dollar.

PART 2
CATTLE COMPENSATION

Compensation payable to owners of cattle

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

- (a) to the owner of any cattle destroyed by or by order of an inspector pursuant to any Act or any regulation or proclamation under any Act—
 - (i) because the cattle are suffering from or suspected of suffering from any disease; or
 - (ii) where the destruction of those cattle was necessary or expedient for the eradication of any disease or the prevention of the spread of any disease:
- (b) to the owner of any carcass, which is pursuant to any Act or any regulation or proclamation under any Act, at any abattoir or slaughterhouse, 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 cattle destroyed with the consent of the chief inspector, because the cattle are suffering from or suspected of suffering from disease.

(2) Where the chief inspector or an inspector orders or consents to the destruction of cattle in the circumstances referred to in subsection (1)(a) or (1)(c) of this section, he may, by notice in writing given to the owner of the cattle, direct that the cattle be taken by the owner to abattoirs designated in the notice so that they may be destroyed at those abattoirs.

(2a) If the owner of cattle fails to comply with a direction under subsection (2) of this section, he shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(2b) It shall be a defence to a charge of an offence against subsection (2a) of this section for the defendant to prove that the direction to which the charge relates was not reasonable in the circumstances.

(3) If—

- (a) pursuant to the *Stock Act 1990* any cattle are detained on any land because of Johne's disease; and
- (b) with the consent in writing of the chief inspector and subject to any conditions imposed by the chief inspector are sold by the owner for the purposes of slaughter at some abattoirs or slaughterhouse designated by the chief inspector or are caused to be slaughtered by the owner at some abattoirs or slaughterhouse designated by the chief inspector; and
- (c) the chief inspector is satisfied that the cattle have been so slaughtered and that any conditions aforesaid have been complied with,

compensation shall be payable under this Act as if the cattle had been destroyed by order of an inspector as mentioned in paragraph (a) of subsection (1).

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Amount of compensation

6. (1) Subject to this Act, on and after the commencement of the *Cattle Compensation Act Amendment Act 1970*, the amount of compensation payable pursuant to this Act in respect of cattle—

- (a) destroyed by order of an inspector as mentioned in paragraph (a) of subsection (1) of section 5 of this Act; or
- (b) destroyed with the consent of the chief inspector as mentioned in paragraph (c) of that subsection,

shall be the market value (subject to such deductions as are hereinafter in this Act specified) of the cattle.

(2) Subject to this Act, the amount of compensation payable pursuant to this Act in respect of any diseased carcass condemned as unfit for human consumption because of disease shall be in accordance with the prescribed scale.

Determination of value of cattle destroyed, etc.

7. (1) Subject to this section, the market value of any cattle so destroyed, or carcass so condemned, shall be determined by the inspector or other person under whose authority the cattle were destroyed or the carcass was condemned.

(2) A determination of market value shall be made under subsection (1) of this section at the time authority is given for destruction of the cattle or the carcass is condemned.

* * * * *

(4) For the purposes of—

- (a) this section; and
- (b) any scale prescribed for the purposes of subsection (2) of section 6 of this Act,

where the market value of any head of cattle or carcass exceeds the prescribed amount the market value of that head of cattle or, as the case may be, carcass shall be deemed to be the prescribed amount.

(5) The owner of any cattle destroyed or carcass condemned may, by notice in writing addressed to the Minister, object to any valuation made under this section upon grounds set out in detail in the notice.

(6) An objection under subsection (5) of this section must be made within one month after the owner receives notice of the valuation.

(7) Where an objection is made under subsection (5) of this section, the Minister may, on the advice of a competent valuer, confirm the valuation to which objection is taken or vary that valuation in such manner as he considers just.

(8) A decision of the Minister under subsection (7) of this section is final and without appeal.

(9) Where the Minister varies a valuation under this section—

- (a) any additional compensation that becomes payable by reason of that variation shall be paid to the owner; and
- (b) if it appears that an overpayment of compensation has been made, the Minister may recover the amount of the excess from the owner as a debt.

Application for compensation

8. (1) No compensation under this Act shall be payable unless the owner of the cattle so destroyed, or of the carcass so condemned, makes application for compensation in the manner and containing the particulars prescribed and verified as prescribed.

(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 cattle, or the inspector or other person who condemned the carcass.

(3) No compensation under this Act shall be payable unless the application for compensation is made by the owner within one month after the destruction of the cattle, or the condemnation of the carcass.

(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 cattle visibly affected with disease has failed to report the matter to an inspector; or
- (b1) in respect of any cattle for which or for the carcass of which an owner claims compensation, unless the chief inspector is satisfied that all cattle stamp duty (if any) which was payable on the sale of the cattle to the owner was duly paid in accordance with the provisions of this Act; or
- (c) if the chief inspector is satisfied—
 - (i) that any cattle stamp duty (if any) payable under this Act by the owner claiming compensation in respect of any cattle of the said owner has not been duly paid in accordance with the provisions of this Act; and
 - (ii) that the owner claiming compensation has not complied with this Act and the regulations with respect to applications and claims for compensation; or
- (d) if the chief inspector is satisfied that the owner claiming compensation by reason of cattle being affected by any disease, has failed to carry out any written instruction of an inspector for the control or eradication of that disease and that the failure has been a probable cause of the cattle being affected by that disease; or

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- (e) in respect of any cattle introduced into South Australia, whether by land, sea, or air, which are destroyed because the cattle are suffering from or suspected of suffering from disease, if the cattle are so destroyed within three months after the introduction of the cattle, unless the chief inspector is satisfied that the cattle became diseased after being introduced, or unless the cattle are found to be free from disease and unless the chief inspector is also satisfied that cattle stamp duty has been paid in accordance with the provisions of this Act upon a sale of the cattle, whether a sale in South Australia or elsewhere; or
- (f) in respect of the carcass of any cattle which are introduced into South Australia, whether by land, sea or air, which is condemned because of disease within three months after the introduction of the cattle, unless the chief inspector is satisfied that, subsequent to the introduction of the cattle, the cattle were sold in South Australia, and that all cattle stamp duty which was payable on the sale of the cattle was duly paid in accordance with the provisions of this Act.

Applicant for compensation must assign his rights to proceeds of sale of carcass, etc.

8A. (1) Where an owner makes an application for compensation under this Act, he shall assign to the Minister his rights to sell, and his rights to the proceeds of the sale of, the carcass and hide of the cattle destroyed or the carcass condemned (as the case may require).

(2) Subject to subsection (3) of this section, the net proceeds of the sale shall be paid into the fund.

(3) Where the net proceeds of the sale exceed the amount of compensation paid to an owner, the balance shall be paid to the owner.

(4) In this section—

"**net proceeds**" in relation to a sale means gross proceeds of the sale less any expenses incurred by the Minister in relation to transportation, slaughter and sale of the cattle or carcass.

If disease is in localised form

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

Trafficking in diseased cattle or carcasses with a view to compensation

10. Any person—

- (a) who buys or sells or who attempts to buy or sell any cattle knowing or having reasonable cause to suspect the cattle 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

- (b) who buys or sells or who attempts to buy or sell any carcass knowing or having reasonable cause to suspect the carcass 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,

shall be guilty of an offence against this Act and liable to a penalty not exceeding fifty dollars for every such head of cattle, or, as the case may be, for every such carcass.

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**PART 3
CATTLE COMPENSATION FUND AND STAMP DUTIES**

Establishment of Cattle Compensation Fund

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

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

(a) all sums of money received by the Commissioner of Stamps in payment for cattle duty stamps issued under section 14 of this Act; and

(aa) all sums of money payable to the Government of the State for the purposes of providing compensation to owners of cattle destroyed for the purposes of the eradication or the prevention of the spread of any disease; and

(b) all sums of money payable by way of duty under this Act and received by the Minister or recovered by the Commissioner of Stamps; and

(c) interest at such rates as the Treasurer from time to time determines on amounts from time to time standing to the credit of the fund; and

(d) all penalties recovered under this Act.

(3) The fund shall, subject to this Act, be applied—

(a) to the payment, pursuant to this Act, of claims for compensation; and

* * * * *

(c) to the repayment of stamp duty under section 15 of this Act, to the costs of the administration of this Act and to the payment of any other sums authorised or required to be paid by this Act.

(4) If the Treasurer is of opinion that the moneys in the fund are for the time being insufficient for the purposes of this Act, the Treasurer may, from time to time and without any further appropriation than this section, advance moneys out of the general revenue to be paid into the fund. Every such advance, together with interest thereon at the rate of five per centum per annum, shall be subsequently repaid from the fund to the Treasurer and shall when repaid be paid into the general revenue.

Allocation from the fund for the general benefit of the cattle industry may be made in certain circumstances

11A. Where, in the opinion of the Minister, the amount standing to the credit of the fund on the thirtieth day of June in any year exceeds the amount necessary to meet any claims or other payments likely to be payable under this Act during the following 12 months, the Minister may direct that the amount of the excess be allocated to such programmes for the benefit of the cattle industry in the State as the Minister thinks fit.

Cattle Compensation Fund Advisory Committee

11B. (1) There shall be a committee entitled the "Cattle Compensation Fund Advisory Committee".

(2) The Committee shall consist of 5 members appointed by the Minister, of whom—

- (a) one (the Chairman) shall be the chief inspector; and
- (b) three shall be persons who, in the opinion of the Minister, are suitable persons to represent the interests of those engaged in the cattle industry in this State; and
- (c) one shall be a person holding a position in the Department of Agriculture.

(3) The Minister may appoint a person holding a position in the Department of Agriculture to be the secretary to the Committee.

(4) A member of the Committee shall hold office on such terms and conditions as may be specified in the instrument of appointment.

(5) A member of the Committee is entitled to receive such allowances and expenses as the Minister may determine.

(6) Subject to the regulations, the procedure of the Committee shall be such as is determined by the Committee.

Functions of the Committee

11C. The functions of the Committee are—

- (a) to advise the Minister in relation to the management of the fund; and
- (b) to make recommendations to the Minister in relation to the allocation of the amount of any excess under section 11A; and
- (c) to investigate and report to the Minister on any matter referred by the Minister to the Committee for advice.

Statements to be made out on sale of cattle and stamps affixed

12. (1) Subject to subsection (4) of section 13 of this Act, every owner of cattle or the carcasses of cattle or the agent of any such owner except where an agent, as the holder of a valid and current permit issued under subsection (1a) of this section, is exempted from complying with the requirements of this subsection, 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 cattle or the carcasses of cattle so sold, the amount of the purchase-money in respect of each head of cattle, or each carcass, as the case may be, and the date of the sale thereof; and
- (b) affix to the said statement cattle 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.

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- (1a) (a) An agent, referred to in subsection (1) of this section, or a person, firm, or company whose business is or includes acting as selling agents of cattle or carcasses of cattle, or both, on behalf of various owners, may apply to the Minister for a permit exempting him or them from complying with the requirements of subsection (1) of this section, but authorising him or them instead, while the permit is effective, to lodge with the Minister returns of purchase-money received from sales of cattle or carcasses of cattle, or both, sold by the applicant as agent during any periods of any duration fixed by the Minister, and to pay to the Minister the amount of duty payable under section 13 of this Act in respect of the purchase-money included in each return.
- (b) If it appears to the Minister—
- (i) that the application is made in good faith; and
 - (ii) that if the application is granted, economy in the administration of this Act will result,
- the Minister may issue a permit in writing.
- (c) The Minister may include in the permit such conditions as, in the particular circumstances of the case, the Minister thinks fit to impose, including without affecting the generality of the discretionary power hereby conferred, conditions—
- (i) as to the manner, form, and time, of compiling and lodging returns, and paying the duty; and
 - (ii) limiting the period to which each return must relate.
- (d) The Minister may, by notice in writing served on the holder of a permit so issued,
- (i) from time to time alter any of the conditions contained in the permit; or
 - (ii) cancel the permit,
- without being required to assign any reason for doing so.
- (e) The Minister shall cause the Commissioner of Stamps to be notified of the issue of any permit, of the conditions of the permit, any alteration of the conditions, and any cancellations of permits.
- (f) Production of a document which purports to be a copy of a permit so issued, or any alteration of the conditions, or any cancellation, of a permit so issued, if purporting to be certified by the Minister to be a copy of the original of which it purports to be a copy, has the same probative value as, and is *prima facie* evidence of the matters contained in, the original.

- (g) Where an agent who is the holder of a valid and current permit so issued, receives purchase-money for the sale on behalf of an owner of cattle or carcasses of cattle, or both, the agent shall apply so much of the purchase-money as equals the amount of duty payable under this Act in respect of the purchase-money, in payment of the duty to the Minister whose acknowledgement of receipt of the payment of the amount is a discharge to the agent of liability to pay the amount to the principal or any person claiming through the principal, and is a discharge to the owner for liability to pay that amount of duty.
- (h) Any amount which an agent is required by paragraph (g) of this subsection to pay to the Minister is, until so paid, a debt owing by the agent to the Minister and may, notwithstanding paragraph (j) of this subsection, be recovered from the agent in a court of competent jurisdiction, at the suit of the Commissioner of Stamps.
- (i) A person, who, being an agent referred to in paragraph (g) of this subsection, does not comply with the requirements of that paragraph, commits an offence.
- (j) Until such time as any amount of duty for which an owner is liable under this Act has been paid either by the owner or by his agent, the amount is a debt owing by the owner to the Minister and may, without prejudice to paragraph (h) of this subsection, be recovered in a court of competent jurisdiction, at the suit of the Commissioner of Stamps.

(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 subsection (1) of this section or, as the case may be, of any condition imposed under subsection (1a) of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred dollars.

(3) Where the holder of a valid and current permit issued under subsection (1a) of this section compiles returns of any sales of cattle or carcasses of cattle or both he shall instead of complying with the requirements of paragraph (c) of subsection (1) of this section transmit to the purchaser by registered letter within seven days of the sale notification in writing of particulars of the sale and that as the holder of the permit he has included particulars of the sale in a return compiled pursuant to the permit.

Purchasers may deduct duty

12A. (1) The Minister may upon application by a person who proposes to purchase cattle or carcasses of cattle, or both, without any agent acting in the transaction grant to that person a permit for the purposes of this section.

(2) Paragraphs (c), (d), (e) and (f) of subsection (1a) of section 12 of this Act shall apply and have effect in relation to a permit under subsection (1) of this section as if it were a permit referred to in those paragraphs.

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(3) Where an owner of cattle or carcasses of cattle sells them or any of them to a purchaser who holds a valid and current permit issued under this section and who is acting without an agent, the owner is not required to comply with the requirements of subsection (1) of section 12 of this Act, but the purchaser shall—

- (a) write out or cause to be written out a statement setting out the number of cattle or carcasses of cattle purchased, the amount of the purchase-money in respect of each head of cattle or carcass and the date of the purchase thereof, and shall either—
 - (i) affix to the statement cattle duty stamps to the amount of the duty payable under of this Act and cancel the stamps; or
 - (ii) comply with the requirements of subsection (4) of this section; and
- (b) give or by registered post send the statement to the owner within seven days of the purchase.

(4) Where in any such purchase the purchaser does not affix to the statement cattle duty stamps in accordance with subparagraph (i) of paragraph (a) of subsection (3) of this section, the purchaser shall—

- (a) specify in the statement the amount of duty payable under of this Act in respect of the purchase-money expended in the purchase; and
- (b) lodge with the Minister a return specifying the purchase-money expended in all such purchases during any period of any duration fixed by the Minister; and
- (c) pay to the Minister the amount of duty payable under of this Act in respect of all such purchase-money.

(5) Any amount which a purchaser is required by subsection (4) of this section to pay to the Minister is, until so paid, a debt owing by the purchaser to the Minister and may be recovered from the purchaser in a court of competent jurisdiction at the suit of the Commissioner of Stamps.

(6) A payment of stamp duty by the purchaser as provided by subsection (3) or (4) of the section shall be a discharge to the purchaser for liability to pay that amount to the owner or a person claiming through the owner.

(7) Without affecting his liability to pay the amount of any unpaid duty, every purchaser who contravenes or fails to comply with any of the provisions of this section or, as the case may be, of any condition imposed under subsection (2) of this section shall be guilty of an offence against this Act and liable to a penalty not exceeding one hundred dollars.

Duty on sales of cattle

13. (1) Subject to subsection (4) of this section, on and after the commencement of the *Cattle Compensation Act Amendment Act 1976*, for every head of cattle or carcass sold there shall be payable stamp duty at such rate as is prescribed.

* * * * *

(3) The duty hereby imposed shall be in addition to any other duty required to be paid under the *Stamp Duties Act 1923-1938*.

(4) Notwithstanding anything in this Act—

- (a) no cattle stamp duty shall be payable under this Act in respect of the sale of any carcass of cattle derived from cattle which were, within the period of fourteen days immediately preceding their slaughter, the subject of a sale in respect of which cattle stamp duty was paid or is payable under this Act; and
- (b) no statement or return pursuant to this Act in relation to the sale of any carcass referred to in paragraph (a) of this subsection need be made or lodged but the onus of proving that cattle stamp duty is not payable, pursuant to this section, shall lie upon the person otherwise liable to pay that duty.

Cattle duty stamps

14. (1) Stamp duties under this Act on the said statements shall be denoted by adhesive stamps (referred to in this Act as "cattle 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 "cattle stamp duty" are printed on and form part of the stamp.

(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 1923-1938* and any regulations thereunder, shall, with such alterations, modifications, and substitutions as are necessary, extend and apply with respect to cattle 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 an offence and liable to imprisonment for any term not exceeding twelve months.

(6) Notwithstanding anything in this Act contained stamp duty under this Act may be denoted by cattle duty stamps issued by the Commissioner of Stamps prior to the coming into operation of the *Decimal Currency Act 1965*: Provided that this subsection shall cease to operate upon a day to be specified by the Governor by proclamation.

(7) The Treasurer may out of the fund re-fund to any person an amount equivalent to the face value of any unused cattle duty stamps held by that person after the coming into operation of the *Decimal Currency Act 1965*.

Inspection of books, etc.

14A. (1) The Minister, or any person authorised in writing by the Minister, may at any time inspect and examine any books, accounts and statements and take any particulars or require any information which he considers necessary with a view to seeing whether the provisions of this Act as to payment of cattle stamp duty are being complied with.

(2) If any person prevents or obstructs the Minister or any person so authorised or refuses or fails to furnish any information so required he shall be liable to a penalty not exceeding one hundred dollars.

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Refund of duty on export of cattle

15. (1) If the Minister is satisfied—

- (a) that any cattle were sold in this State and that all cattle stamp duty in respect of the sale has been paid; and
- (b) that within one month of the sale the cattle were exported to any place outside this State and that the cattle have not subsequently been introduced into this State and that the cattle are not likely to be so introduced,

the Minister may direct that an amount equal to the cattle stamp duty paid in respect of the said sale shall be repaid out of the fund to the person by whom the cattle stamp duty was paid.

(2) No amount shall be payable pursuant to this section unless the applicant makes application in the manner and containing the particulars prescribed and verified as prescribed and unless the application is made within one month after the time the cattle referred to in the application were exported from this State.

**PART 3A
TESTING FOR TUBERCULOSIS**

Minister may authorise testing for tuberculosis

15A. (1) The Minister may by writing under his hand authorise an inspector to carry out such test or tests as may be specified in the authorisation to ascertain whether or not any cattle are affected with tuberculosis.

(2) The Minister may from time to time, by a like writing, vary, or revoke, an authorisation given under subsection (1) of this section.

Agreements

15B. (1) The Minister, or a person acting on the authority and on behalf of the Minister, may enter into an agreement with a person for the time being authorised under subsection (1) of section 15A of this Act as to the terms and conditions applicable to the carrying out of tests authorised under that subsection.

(2) Without limiting the generality of the power conferred by subsection (1) of this section on the Minister or a person acting on his authority and behalf the power conferred by that subsection includes the power to enter into an agreement with a person for the time being authorised under subsection (1) of section 15A of this Act as to the terms and conditions for the payment to be made, by the Minister, for all or any of the following matters—

- (a) for each head of cattle tested; and
- (b) for all or portion of the travelling expenses incurred by the person authorised in connection with the testing; and
- (c) for or in respect of any other matter in connection with the testing.

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**PART 4
MISCELLANEOUS**

Regulations

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

- (aa) prescribing the rate or rates of stamp duty payable under this Act; and
- (a) the manner of making and dealing with and the verification of applications for compensation, and applications made pursuant to section 15 for repayment of cattle stamp duty; and
- (b) prescribing the form of any certificate to be issued by any inspector or other person in respect of the destruction of any diseased cattle or any cattle suspected of suffering from disease, or the condemnation of any diseased carcass, and the particulars to be set forth in any such certificate; and
- (c) scales of compensation payable in respect of diseased carcasses; and
- (d) the retention under this Act of cattle by the owner thereof, when the cattle are affected with a localised form of disease only and the conditions of such retention; and
- (e) safeguarding the fund from claims for compensation in respect of cattle or carcasses or portions thereof in cases where the cattle are diseased or suspected of being diseased, when introduced or being introduced into South Australia, whether by land, air, or sea; and generally preventing fraudulent or dishonest claims for compensation; and
- (f) all matters and things necessary or convenient to be prescribed with respect to the fund and the administration thereof; and
- (g) forms for the purposes of this Act and the regulations; and
- (h) prescribing penalties (not exceeding forty dollars 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 the Act

17. (1) The costs of the administration of this Act shall be paid out of the fund.

(2) Where the chief inspector so authorises, the costs of destroying cattle found to be diseased shall be paid out of the fund.

Penalty on persons making charges, etc., for insurance purposes on sale of cattle

18. If on the sale of any cattle (whether sold singly or as part of a lot) to any person, that 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 cattle before it reaches the premises of the purchaser or by reason of any disease in the cattle (whether the disease is of any of the kinds mentioned in section 4 or otherwise) or injury to the cattle, the said person or agent shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars.

Inconsistent conditions in contracts to be in-operative

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.

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APPENDIX

LEGISLATIVE HISTORY

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 2 of The Public General Acts of South Australia 1837-1975 at page 108.
- Legislative history since 3 February 1976 (**entries in bold type indicate amendments incorporated since the last reprint**) is as follows:

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|-------------------------|---|
| Section 4(1): | definition of "carcass" substituted by 71, 1979, s. 3(a) definition of "the Committee" inserted by 21, 1986, s. 2 definition of "disease" substituted by 61, 1976, s. 3 definition of "inspector" amended by 62, 1990, Sched. 2, cl. 1(a) definition of "market value" substituted by 71, 1979, s. 3(b) |
| Section 4A(1): | amended by 61, 1976, s. 4(a) |
| Section 4A(2): | amended by 61, 1976, s. 4(b), (c) |
| Section 4A(3): | amended by 61, 1976, s. 4(d), (e) |
| Section 4B: | inserted by 61, 1976, s. 5 |
| Section 5(1): | amended by 61, 1976, s. 6; 71, 1979, s. 4(a) |
| Section 5(2): | substituted by 71, 1979, s. 4(b) |
| Section 5(2a) and (2b): | inserted by 71, 1979, s. 4(b) |
| Section 5(3): | amended by 62, 1990, Sched. 2, cl. 1(b) |
| Section 6(1): | amended by 61, 1976, s. 7 |
| Section 6(2): | amended by 71, 1979, s. 5 |
| Section 7(1) and (2): | substituted by 71, 1979, s. 6(a) |
| Section 7(3): | repealed by 71, 1979, s. 6(a) |
| Section 7(4): | amended by 71, 1979, s. 6(b) |
| Section 7(5) - (9): | inserted by 71, 1979, s. 6(c) |
| Section 8(1): | amended by 71, 1979, s. 7(a) |
| Section 8(2): | amended by 71, 1979, s. 7(b) |
| Section 8(3): | amended by 71, 1979, s. 7(a) |
| Section 8(4): | amended by 71, 1979, s. 7(c); 62, 1990, Sched. 2, cl. 1(c) |
| Section 8A: | inserted by 71, 1979, s. 8 |
| Section 10: | amended by 71, 1979, s. 9 |
| Section 11(2): | amended by 61, 1976, s. 8 |
| Sections 11A - 11C: | inserted by 21, 1986, s. 3 |
| Section 12A(3): | amended by 61, 1976, s. 9(a) |
| Section 12A(4): | amended by 61, 1976, s. 9(b) |
| Section 13(1): | substituted by 61, 1976, s. 10 |
| Section 13(2): | repealed by 61, 1976, s. 10 |
| Section 14(5): | amended by 59, 1994, Sched. 2 |
| Section 15A(1): | amended by 71, 1979, s. 10 |
| Section 16: | amended by 61, 1976, s. 11; 71, 1979, s. 11 |
| Section 17: | redesignated as s. 17(1) by 71, 1979, s. 12 |
| Section 17(2): | inserted by 71, 1979, s. 12 |
| Section 20: | repealed by 59, 1994, Sched. 2 |