

SOUTH AUSTRALIA

FOOT AND MOUTH DISEASE ERADICATION FUND ACT, 1958

This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at 1 July 1991.

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

FOOT AND MOUTH DISEASE ERADICATION FUND ACT, 1958

being

Foot and Mouth Disease Eradication Fund Act, 1958,
No. 38 of 1958 [Assented to 27 November 1958]¹

as amended by

Foot and Mouth Disease Eradication Fund Act Amendment Act, 1965, No. 18 of 1965 [Assented to 10 November 1965]
Foot and Mouth Disease Eradication Fund Act Amendment Act, 1971, No. 55 of 1971 [Assented to 30 September 1971]²
Foot and Mouth Disease Eradication Fund Act Amendment Act, 1983, No. 61 of 1983 [Assented to 22 September 1983]
Stock Act, 1990, No. 62 of 1990 [Assented to 6 December 1990]³

¹ Came into operation 14 March 1968: *Gaz.* 14 March 1968, p. 849.

² Came into operation 1 November 1971: *Gaz.* 28 October 1971, p. 1752.

³ Came into operation 30 May 1991: *Gaz.* 23 May 1991, p. 1638.

An Act to provide for the establishment of a Foot and Mouth Disease Eradication Fund and for the payment of compensation to owners of animals and property destroyed in order to eradicate or prevent the spread of foot and mouth disease, and for other purposes

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

Short title

1. This Act may be cited as the *Foot and Mouth Disease Eradication Fund Act, 1958*.

Commencement of Act

2. This Act shall come into operation on a day to be fixed by the Governor by proclamation.

Interpretation

3. In this Act, unless the context otherwise requires—

"animal" means any animal of the bovine genus, horse, sheep, goat, swine or animal of a proclaimed class:

"foot and mouth disease" includes vesicular exanthema and vesicular stomatitis and any disease for the time being declared by proclamation to be included within the definition of foot and mouth disease for the purposes of this Act:

"the fund" means the Foot and Mouth Disease Eradication Fund established under this Act:

"inspector" means inspector of stock appointed under the *Stock Act, 1990*, or any other person appointed as an inspector under this Act:

"the Minister" means the Minister of Agriculture:

"owner" means person, other than a mortgagee not in possession, having or claiming jointly or in severalty any right, title or interest to or in any stock or property and shall include the authorized agent of an owner.

Proclamation of additional classes of animals

4. The Governor may by proclamation—

- (a) declare any class of animals other than those mentioned in the definition of animal in section 3 of this Act, to be animals within the meaning of that definition;

- (b) declare any disease to be included within the definition of foot and mouth disease for the purposes of this Act;

and

- (c) revoke or vary any declaration referred to in paragraph (a) or (b) of this section.

Foot and Mouth Disease Eradication Fund

5. There shall be established and kept in the Treasury a Fund to be called "The Foot and Mouth Disease Eradication Fund".

Inspectors

6. The Governor may appoint fit and proper persons to be inspectors under this Act.

Payments into Fund

7. There shall be paid to the credit of the Fund—

- (a) all sums of money payable to the State of South Australia by the Commonwealth and the States in accordance with an agreement entered into by the Commonwealth Government and all State Governments for the control and eradication of foot and mouth disease;
- (b) the proceeds of the sale of stores and equipment sold under the provisions of this Act;
- (c) all moneys advanced by the Treasurer to the Fund, the amount of such advances being payable out of the general revenue of the State which is, to the necessary extent, hereby appropriated.

Payments out of Fund

8. The Fund shall be applied to the payment of—

- (a) all expenses directly connected with the control and eradication of foot and mouth disease except the salaries or wages of officers and employees of the State of South Australia who are or would be employed irrespective of any outbreak of foot and mouth disease; and
- (b) compensation in accordance with the provisions of this Act;
- (c) expenses incurred in obtaining a determination of value of items for which compensation is claimed in accordance with the provisions of this Act;

and

- (d) the contributions of the State of South Australia towards the costs incurred by the Commonwealth or by any other State in accordance with an agreement entered into by the Commonwealth Government and all State Governments for the control and eradication of foot and mouth disease.

Compensation

9. (1) Subject to this Act, compensation shall be paid to the owner of—

- (a) any animal or any property of any kind which is destroyed pursuant to the *Stock Act, 1990*, for the purpose of eradicating or preventing the spread of foot and mouth disease; and
- (b) an animal that an inspector has certified as having died of foot and mouth disease.

(2) Compensation is not payable in respect of an animal destroyed pursuant to powers given by a proclamation under section 25(2)(j) of the *Stock Act, 1990*.

Assessment of compensation

10. (1) The amount of the compensation payable for an animal under the provisions of section 9 shall be—

- (a) if the animal was destroyed as mentioned in paragraph (a) of section 9 and was affected with foot and mouth disease at the time of its destruction—the value of the animal immediately before it became so affected;
- (b) if the animal died as mentioned in paragraph (b) of section 9—the value of the animal immediately before it became affected with foot and mouth disease;
- (c) in every other case, the value of the animal immediately before it was destroyed.

(2) The amount of the compensation payable for any property which is destroyed as mentioned in paragraph (a) of section 9 shall be its value at the time of its destruction.

Mode of valuation of animal or property

11. (1) The value of any animal or property for the purposes of this Act shall be determined by agreement between the owner and the Minister and in default of such agreement shall be determined by a special magistrate nominated by the Attorney-General.

(2) The determination of a special magistrate under this section shall be final and conclusive.

No other compensation payable

12. Notwithstanding the provisions of any other Act, no further compensation shall be paid by the Crown for any animal or property for which compensation has been or may be paid under this Act.

Limits to compensation

13. Notwithstanding the provisions of sections 9, 10 and 11 of this Act—

- (a) no compensation shall be payable in respect of any animal or property unless within ninety days of the destruction or death of the animal or the destruction of the property an application is lodged with the Minister in the prescribed form and manner giving the prescribed particulars and verified as prescribed;
- (b) where—
 - (i) compensation would, but for this paragraph, be payable pursuant to this Act in respect of the destruction or death of an animal or the destruction of property;
 - (ii) the owner of the animal or other property has failed to comply with this Act, the *Stock Act, 1990*, or any other law providing for the control or eradication of foot and mouth disease;

and

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- (iii) that failure has, in the opinion of the Minister, caused or contributed to the need to destroy the animal or other property or to the death of the animal,

the Minister may refuse payment of the whole or such part of the compensation that would otherwise be payable under this Act in respect of that animal or property as he determines;

- (c) no compensation shall be paid under this Act for loss of profit, loss occasioned by breach of contract, loss of production, or any other consequential loss.

False statements

14. Any person who knowingly makes a false statement or who does or is concerned in any fraudulent act for the purpose of obtaining a pecuniary benefit for himself or any other person under this Act shall be guilty of an offence and shall be liable to a fine not exceeding two hundred dollars.

Winding up of fund

15. On a date to be appointed by the Governor by proclamation published in the *Gazette*, such date not being earlier than six months nor later than twelve months after the last diagnosed case of foot and mouth disease in Australia, the Foot and Mouth Disease Eradication Fund shall be wound up in the following way:—

- (a) All moneys payable under the Act which have not been paid to claimants shall be retained by the Minister for such payment;
- (b) If any undetermined claims are pending settlement the Minister may retain sufficient sums to meet these claims, costs and incidental expenses as though in each case the claimant were awarded the full amount of his claims. On the settlement of such claims, any sums remaining shall be disbursed in accordance with the provisions of paragraph (d) of this section;
- (c) All stores and equipment purchased from the fund shall be sold and the proceeds paid into the fund: Provided that subject to the approval of the Commonwealth and the several States which have contributed to the fund any of the stores and equipment purchased from the fund may be retained until such time as all contributors to the fund determine that they shall be sold. The proceeds of such sale shall be distributed as provided in paragraph (d) of this section;
- (d) All moneys in the fund when the moneys mentioned in paragraphs (a), (b) and (c) of this section have been added or deducted as the case may be, shall be paid to the Commonwealth and the States in proportion to their respective contributions to the fund, with due allowances for any deficiencies in contributions.

Regulations

16. The Governor may make regulations not inconsistent with this Act prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act and without limiting the generality of the foregoing may—

- (a) prescribe the method of making valuations;

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- (b) prescribe procedures to be followed in respect of compensation;
- (c) provide that a breach of any regulation shall be punishable on summary conviction by a fine not exceeding one hundred dollars.

Summary procedure

17. Proceedings for offences against this Act shall be heard and determined summarily.

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 4 of The Public General Acts of South Australia 1837-1975 at page 290.

Section 3:	definition of "inspector" amended by 62, 1990, Sched. 2, cl. 2(a)
Section 7:	amended by 61, 1983, s. 2
Section 9:	amended by 61, 1983, s. 3; amended and redesignated as s. 9(1) by 62, 1990, Sched. 2, cl. 2(b), (c)
Section 9(2):	inserted by 62, 1990, Sched. 2, cl. 2(c)
Section 13:	amended by 61, 1983, s. 4; 62, 1990, Sched. 2, cl. 2(d)
Section 14:	amended by 61, 1983, s. 5
Section 17:	amended by 61, 1983, s. 6