

South Australia

Primary Industry Funding Schemes (Cattle Industry Fund) Regulations 2015

under the *Primary Industry Funding Schemes Act 1998*

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Legislative history

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Primary Industry Funding Schemes (Cattle Industry Fund) Regulations 2015*.

3—Interpretation

- (1) In these regulations, unless the contrary intention appears—
Act means the *Primary Industry Funding Schemes Act 1998*;

authorised manufacturer, in relation to PIDs, has the same meaning as in the *Livestock Regulations 2013*;

authorised recycler, in relation to PIDs, has the same meaning as in the *Livestock Regulations 2013*;

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 6;

compensable disease means—

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

Fund—see regulation 5;

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

low value cattle contribution—see subregulation (2);

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;

PID or **permanent identification device** has the same meaning as in the *Livestock Regulations 2013*;

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

- (2) For the purposes of these regulations, a person will be taken to have paid a low value cattle contribution in relation to an animal if—
 - (a) the person paid a contribution for a PID attached to or inserted in an animal; and
 - (b) the animal was subsequently sold by the person for less than \$100.

4—Persons in default in relation to contributions

For the purposes of these regulations, a person will be taken to be 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 (other than a refund for low value cattle contributions determined in accordance with regulation 8).

Part 2—South Australian Cattle Industry Fund

5—South Australian Cattle Industry Fund

- (1) The *South Australian Cattle Industry Fund* (the **Fund**), established under the revoked regulations, continues.
- (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 revoked *Livestock Regulations 1998*; and
 - (b) contributions paid or collected in accordance with these regulations; and
 - (c) the 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.
- (4) In this regulation—

revoked regulations means the *Primary Industry Funding Schemes (Cattle Industry Fund) Regulations 2000*.

6—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 is the consultative committee to advise the Minister in relation to the application of the Fund.

7—Contributions to Fund

- (1) Contributions to the Fund are payable by a person who purchases PIDs for cattle as follows:
 - (a) an amount of \$1.50 is payable for each PID so purchased from an authorised manufacturer, or authorised recycler, of PIDs;
 - (b) the amount is payable by the purchaser to the authorised manufacturer or recycler (as collecting agent for the Minister)—
 - (i) not later than 1 month after the supply of the PID to the purchaser or the date of payment for the PID (whichever is the earlier); or
 - (ii) at such later time as may be approved by the Minister.
- (2) The authorised manufacturer or recycler must—
 - (a) within 14 days after the end of each quarter, furnish the Minister with a financial statement relating to the PIDs sold during that quarter that—
 - (i) is in the form, and contains the information, required by the Minister; and
 - (ii) is, if the authorised manufacturer or recycler 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 authorised manufacturer or recycler by way of contributions by the purchasers in respect of PIDs during the quarter to which the financial statement relates.
- (3) The money received by the authorised manufacturer or recycler by way of contributions paid by the purchasers in respect of PIDs is held on trust for the Minister and must be paid by the authorised manufacturer or recycler into an ADI account—
 - (a) that is separate from all other ADI accounts operated by the authorised manufacturer or recycler and into which no other money is paid; and
 - (b) from which the authorised manufacturer or recycler 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) The authorised manufacturer or recycler 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 manufacturer, or authorised recycler, of PIDs who contravenes this regulation is guilty of an offence.
Maximum penalty: \$5 000.

8—Refunds for low value cattle contributions

- (1) A person who has paid low value cattle contributions during a financial year may, at any time until 31 July in the following financial year, by notice in writing to the Minister, make a claim for a refund for those contributions.
- (2) A person claiming a refund under subregulation (1) must supply the Minister with—
 - (a) evidence acceptable to the Minister of the contributions in respect of which the claim is made; and
 - (b) if required by the Minister, verification of that evidence in the form of a statutory declaration.
- (3) If the person satisfies the Minister that the person is entitled to a refund under this regulation for contributions paid by the person, the Minister must refund to the person the total amount of those contributions.

9—Refunds for contributions other than low value cattle contributions

- (1) A person who has paid contributions (other than low value cattle contributions) during a financial year may, within the 12 months following that financial year, by notice in writing to the Minister, make a claim for a refund for those contributions.
- (2) A person claiming a refund under subregulation (1) must supply the Minister with—
 - (a) evidence acceptable to the Minister of the contributions in respect of which the claim is made; and
 - (b) if required by the Minister, verification of that evidence in the form of a statutory declaration.

- (3) If the person satisfies the Minister that the person is entitled to a refund under this regulation for contributions (other than low value cattle contributions) paid during a financial year, the Minister must refund to the person an amount determined in accordance with the following formula:

$$R = Ct + (C1 + C2 \times \frac{9}{12} + C3 \times \frac{6}{12} + C4 \times \frac{3}{12}) \times I$$

where—

R is the total amount of the refund;

Ct is the total amount of the contributions paid during that financial year;

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

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

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

C4 is the contribution paid 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.

10—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 7;
 - (e) payments to a body that, in the opinion of the Minister, represents cattle producers for 1 or more of the following purposes:
 - (i) the reasonable operating and management expenses of the body;
 - (ii) promoting the cattle industry;
 - (iii) participation of the body in regional, State or national cattle industry forums;
 - (iv) undertaking or facilitating research and development, or the collection and dissemination to cattle producers of information, relevant to the cattle industry and, in particular, to the improvement of practices in the industry;
 - (v) fees for affiliation of the body with regional, State or national bodies representing or promoting the interests of the cattle producers;
 - (vi) other purposes of the body;

- (f) 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);
 - (g) 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 13 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 funded by payments from the Fund.

11—Exchange of information

The Minister may provide a body to which payments are made out of the Fund under regulation 10(1)(e) with information identifying persons who have paid or been refunded contributions under these regulations.

Part 3—Compensation scheme

12—Claim for compensation

- (1) Subject to these regulations, the owner of cattle destroyed in accordance with a notice or order issued under Part 4 Division 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 1 claim may be made in respect of an animal.

13—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 12(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.

14—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 13(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.

15—Procedure for claiming compensation and determination of claim

- (1) A claim for compensation must be made to the Chief Inspector within 1 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 3 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 1 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

16—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

- Variations of this version that are uncommenced are not incorporated into the text.
- 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.

Legislation revoked by principal regulations

The *Primary Industry Funding Schemes (Cattle Industry Fund) Regulations 2015* revoked the following:

Primary Industry Funding Schemes (Cattle Industry Fund) Regulations 2000

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2015	48	<i>Gazette 14.5.2015 p1765</i>	14.5.2015: r 2
2016	192	<i>Gazette 11.8.2016 p3192</i>	10.9.2016: r 2
2018	14	<i>Gazette 30.1.2018 p582</i>	22.2.2018: r 2

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 the Legislation Revision and Publication Act 2002</i>	10.9.2016
Pt 2		
r 7(1)	varied by 192/2016 r 4	10.9.2016
Sch 1	<i>omitted under the Legislation Revision and Publication Act 2002</i>	10.9.2016