

# LIVESTOCK DISEASES ACT 1978

## No. 181 of 1978

An Act to make provision for and in relation to the control and eradication of exotic diseases affecting livestock.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

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|---------------------|---|
| Short title         | 1. This Act may be cited as the <i>Livestock Diseases Act 1978</i> . <sup>1</sup>   |
| Commence-<br>ment   | 2. This Act shall come into operation on the day on which it receives the Royal Assent. <sup>1</sup>  |
| Repeal              | 3. The <i>Foot and Mouth Disease Act 1961</i> and the <i>Foot and Mouth Disease Act 1965</i> are repealed.  |
| Interpret-<br>ation | <p>4. (1) In this Act, unless the contrary intention appears—</p> <p>“declared area”, in relation to a prescribed disease, means an area in respect of which there is in force under section 6 a declaration of that area as a declared area in respect of that disease;</p> <p>“livestock” includes any animals of a kind kept or dealt in for use or profit;</p> <p>“owner”, in relation to livestock or other property that has been destroyed or livestock that has died, means a person who, or a partnership which, had an interest in the livestock or other property at the time of its destruction or death, but does not include the holder of a mortgage, lien or charge in respect of the livestock or other property who was not in possession at that time;</p> <p>“prescribed disease” means any disease affecting livestock which the Minister is satisfied is an exotic disease and is for the time being declared by the Minister, by notice published in the <i>Gazette</i>, to be a prescribed disease for the purposes of this Act;</p> <p>“State” includes the Northern Territory;</p> <p>“Trust Account” means the Livestock Diseases Eradication Trust Account referred to in section 7.</p> <p>(2) The reference in the definition of “livestock” in sub-section (1) to animals shall be read as including a reference to birds, fish and insects and any other form of animal life.</p> |

5. (1) The Minister may, on behalf of the Commonwealth, enter into an arrangement with a State under which the Commonwealth will make payments to that State and that State will make payments to the Commonwealth as required by that arrangement with a view to the control and eradication in Australia of exotic diseases affecting livestock.

Arrange-  
ments with  
States

(2) An arrangement made between the Commonwealth and a State and in force immediately before the commencement of this Act in connection with the payment of moneys by the Commonwealth to a State or by a State to the Commonwealth with a view to the control and eradication of exotic diseases affecting livestock shall be deemed, for the purposes of this Act, to be an arrangement made under sub-section (1).

6. (1) Where the Minister is satisfied that a prescribed disease is, or is reasonably suspected to be, present in an area, being the whole or part of the Australian Capital Territory, the Minister may, by notice published in the *Gazette*, declare that area to be, for the purposes of this Act, a declared area in respect of that disease.

Declared  
areas

(2) A notice under sub-section (1) may be expressed to be deemed to have had effect from a specified date, being a date earlier than the date on which it is published in the *Gazette*, and a notice so expressed shall be deemed, for the purposes of this Act, to have had effect on and from the date so specified.

(3) Where the Minister is satisfied, in respect of an area being the whole or a part of an area referred to in a notice under sub-section (1)—

- (a) that the prescribed disease referred to in the notice is not, or is no longer, present in the first-mentioned area; or
- (b) that that prescribed disease is present in the first-mentioned area but it is not practicable to eradicate the disease from that area or to prevent the spread of the disease from that area,

the Minister may, by notice published in the *Gazette*, revoke the declaration to the extent that it relates to the first-mentioned area.

7. (1) The Foot and Mouth Disease Eradication Trust Account that was established under the *Foot and Mouth Disease Act* 1961 is continued in existence under the name Livestock Diseases Eradication Trust Account.

Trust  
Account

(2) The Trust Account is a Trust Account for the purposes of section 62A of the *Audit Act* 1901.

8. (1) Subject to sub-section (2), the Minister for Finance may, from time to time, pay to the credit of the Trust Account, out of the Consolidated Revenue Fund, such sums as he determines.

Payments to  
Trust  
Account

(2) The Minister for Finance shall not make a payment under sub-section (1) if the amount standing to the credit of the Trust Account is, or would, after the payment, be, more than \$400,000.

(3) There shall be paid to the credit of the Trust Account—

- (a) any amount paid to the Commonwealth by a State under an arrangement referred to in section 5;
- (b) moneys received by the Commonwealth from the sale of any goods bought out of moneys standing to the credit of the Trust Account; and
- (c) interest from the investment of moneys standing to the credit of the Trust Account.

(4) The Consolidated Revenue Fund is appropriated to the extent necessary for making the payments referred to in this section.

Purposes of  
Trust  
Account

9. Moneys standing to the credit of the Trust Account may be applied in the payment or recoupment of—

- (a) compensation payable under this Act;
- (b) expenses (other than salaries or wages) incurred by the Commonwealth—
  - (i) in dealing with the occurrence, in a declared area, of the prescribed disease referred to in the notice declaring that area to be a declared area; or
  - (ii) in connection with claims for compensation referred to in paragraph (a); or
- (c) salaries and wages of persons employed by the Commonwealth specifically in connection with the occurrence, in a declared area, of the prescribed disease referred to in the notice declaring that area to be a declared area.

Distribution  
of surplus in  
Trust  
Account

10. (1) The Minister for Finance may, at any time, direct, with respect to any moneys standing to the credit of the Trust Account that are not required for the purposes of the Trust Account, that those moneys be paid out of the Trust Account and divided among the Commonwealth and the States in such proportions as he determines having regard to the contributions made by the Commonwealth and the States to the Trust Account.

(2) The share of the Commonwealth in any moneys divided in accordance with sub-section (1) shall be paid to the credit of the Consolidated Revenue Fund.

Compen-  
sation

11. (1) Where livestock or other property is destroyed, in accordance with the law of the Australian Capital Territory, in a declared area that comprises the whole or part of that Territory, for the purposes of eradicating from that area, or preventing the spread in, or out of, that

area of, the prescribed disease referred to in the notice declaring that area to be a declared area, compensation is, subject to this Act, payable in respect of that livestock or other property.

(2) Where—

- (a) during the period during which an area, being a declared area that comprises the whole or part of the Australian Capital Territory, is a declared area, measures are taken to eradicate from that area, or to prevent the spread in, or out of, that area of, the prescribed disease referred to in the notice declaring that area to be a declared area; and
- (b) a person authorized by the Minister for the purpose certifies that livestock that died in that area during that period died from that disease,

compensation is, subject to this Act, payable in respect of that livestock.

**12.** Subject to this Act, compensation payable under this Act in respect of livestock or other property shall—

Persons  
eligible for  
compensation

- (a) where there is only 1 owner of the livestock or other property—be paid to the owner; or
- (b) where there is more than 1 owner of the livestock or other property—be divided among those owners in accordance with their interests in the livestock or other property at the time of its destruction or death.

**13.** (1) An owner is not entitled to compensation under this Act in respect of livestock or other property unless a claim for compensation, in respect of the livestock or other property, is made by or on behalf of the owner within 2 months after the date of the destruction or death of the livestock or other property.

Claims to be  
made within  
2 months

(2) A claim for compensation under sub-section (1) shall be in a form approved by the Minister and shall be accompanied by such documents as are required to be submitted in accordance with that form.

**14.** Where—

- (a) a person has, after the commencement of this Act, been convicted of an offence against the law of the Australian Capital Territory by reason of an act or omission as a result of which any livestock has been infected, or exposed to the risk of infection, with a prescribed disease or any other property has been contaminated, or exposed to the risk of contamination, with a prescribed disease; and
- (b) after the commission of that offence, an amount of compensation becomes payable to that person, or to a partnership of which that person is a member, in respect of that livestock or other property,

Compensation not to  
be paid to  
convicted  
person

the Minister may, by instrument in writing signed by him, direct that the whole or such part as the Minister thinks fit, of that amount be not paid.

Compensation not to be paid twice

**15.** Where section 11 applies in relation to any livestock or other property, compensation is not payable in respect of the livestock or other property under the law of the Australian Capital Territory.

Calculation of compensation

**16.** The compensation payable under this Act in respect of livestock or other property is an amount equal to the market value of the livestock or other property immediately before its destruction or death or, if, being livestock, it was, at that time, infected with a prescribed disease, the market value of the livestock immediately before it became so infected.

Recovery of compensation

**17. (1)** Compensation payable under this Act may be recovered by action against the Commonwealth in a court of the Australian Capital Territory, being a court having jurisdiction in actions for the recovery of debts equal to the amount of compensation claimed.

(2) Nothing in this section shall be deemed to prevent the making or operation of an agreement between the Commonwealth and an owner claiming compensation under this Act for submission to arbitration in accordance with the law of the Australian Capital Territory of the question of the amount of compensation payable to the owner under this Act.

False statements, &c.

**18.** A person shall not, for the purpose of obtaining pecuniary benefit for himself or any other person under this Act—

- (a) make a false or misleading statement, knowing it to be false or misleading or not believing it to be true; or
- (b) do a fraudulent act.

Penalty: \$200.

Operation of Territory law not affected

**19.** Except as provided in section 15, nothing in this Act shall be taken to affect the operation of the law of the Australian Capital Territory relating to diseases affecting livestock.

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#### NOTE

1. Act No. 181, 1978; assented to 4 December 1978.