

NORTHERN TERRITORY OF AUSTRALIA

EXOTIC DISEASES (ANIMALS) COMPENSATION ACT

As in force at 1 July 1996

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NORTHERN TERRITORY OF AUSTRALIA

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EXOTIC DISEASES (ANIMALS) COMPENSATION ACT

An act to provide compensation for certain losses occasioned by exotic diseases of animals

1 Short title

This Act may be cited as the *Exotic Diseases (Animals) Compensation Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Definitions

In this Act, unless the contrary intention appears:

animal means:

- (a) a camel, sheep, goat, swine, bird, dog, cat, bee or deer being an animal which is kept in a domestic state;
- (b) a horse, bovine animal or buffalo, being an animal which is branded, or is the progeny under the age of 12 months of a branded animal, or the movement of which is restricted to a confined area on:
 - (i) land held for an estate in fee simple;
 - (ii) land held under a lease from the Crown, being a lease that contains a covenant permitting the land to be used for pastoral purposes;
 - (iii) land occupied under a licence from the Crown, being a licence that contains a provision permitting the land to be used for pastoral purposes; or
 - (iv) a stock route or stock reserve within the meaning of the *Stock Routes and Travelling Stock Act*, or

- (c) such other animal as may be prescribed to be an animal for the purposes of this Act.

carcass means any portion of the body of a dead animal and includes its hide, skin, hair, feathers, wool and viscera.

Chief Inspector means the Chief Inspector of Stock holding office under the *Stock Diseases Act* and includes a person exercising powers or functions delegated to him under that Act.

exotic disease means a disease, parasite or pest prescribed in the Schedule.

fitting includes harness, saddlery and anything commonly used in the handling of animals.

fodder includes hay, straw, grass, grain and green crops.

horse includes ass, mule or hinny.

infected, in relation to an animal, means that the animal:

- (a) is diseased or affected by an exotic disease;
- (b) is in a flock or herd in which there are animals which are diseased; or
- (c) is depastured or has been depastured on land upon which, within the last preceding 6 months, diseased stock have been depastured or have travelled.

inspector means a person appointed and holding office as an inspector under the *Stock Diseases Act* except where the Minister has otherwise directed under section 11 of that Act.

owner, in relation to an animal or other property that has been destroyed or an animal that has died, means a person who, or partnership which, had an interest in the animal or other property at the time of its destruction or death, and includes a person to whom or a partnership to which the right to submit a claim for compensation under this Act passes by succession or assignment, but does not include the holder of a mortgage, lien or charge over the animal or other property who was not in possession at the time of its destruction or death.

property includes any building, fitting, appliance, fodder, carcass, dung, farm produce or any other thing that may be used by, for or in connection with an animal.

4 Submission of claim for compensation

(1) Where an inspector:

- (a) has reasonable cause to believe that any animal or other property is or has recently been suffering from or infected with an exotic disease; and
- (b) in the exercise of a power under section 42 of the *Stock Diseases Act* destroys or causes or orders the destruction of the animal or other property,

an owner of the animal or other property may, after the destruction, submit to the Chief Inspector a claim in accordance with section 5 for compensation under this Act.

(2) For the purposes of this Act an animal which dies on land which at the time of the death is in a quarantine area established under the *Stock Diseases Act* in order to prevent the spread of an exotic disease shall be deemed to have been destroyed immediately before the establishment of the quarantine area in the exercise of a power under section 42 of that Act by an inspector having reasonable cause to believe that the animal is or has recently been suffering from or infected with an exotic disease, if an inspector certifies in writing that in his opinion there are reasonable grounds to believe that the animal died from an exotic disease.

5 Form of claim

A claim submitted under section 4:

- (a) shall be in writing signed by an owner or a person authorized in writing by an owner to submit the claim; and
- (b) shall be accompanied by a declaration signed by that owner or person:
 - (i) as to the date and place of the destruction;
 - (ii) as to the amount of compensation claimed for each animal and item of property destroyed;
 - (iii) as to the nature and value, at the time when the animal or other property was destroyed, of the interest, in the animal or other property, of the owner submitting the claim;
 - (iv) as to whether an inspector destroyed or caused or ordered to be destroyed the animal or other property to which the claim relates; and

(v) as to any other matter prescribed.

6 Duties of Chief Inspector in relation to claim

- (1) Where a claim in accordance with section 5 has been submitted to the Chief Inspector, and the Chief Inspector is satisfied that:
 - (a) all animals and other property to which the claim relates have been destroyed;
 - (b) the animals and other property to which the claim related were destroyed or caused or ordered to be destroyed in the exercise of a power under the *Stock Diseases Act* by an inspector having reasonable cause to believe that the animals and other property were suffering from or infected with an exotic disease;
 - (c) the person submitting the claim was an owner, at the time of the destruction, of the animals and other property to which the claim relates; and
 - (d) in respect of any animal or other item of property destroyed the amount of compensation claimed is not greater than the amount payable as compensation under section 10,

the Chief Inspector shall certify that the claim is payable.

- (2) If the Chief Inspector does not certify that a claim submitted under this Act is payable he shall give notice in writing to the person submitting the claim that he has not certified the claim and shall state in the notice why he has not done so.

7 Chief Inspector may require further particulars

- (1) The Chief Inspector may, in writing, request a person who has submitted a claim under this Act to supply such further particulars in relation to the claim as the Chief Inspector thinks should be supplied to enable him to be satisfied on a matter specified in section 6(1)(a), (b), (c) or (d).
- (2) The Chief Inspector may refuse to certify a claim until he has received in writing signed by the person submitting the claim such further particulars as are requested under subsection (1) and are, in his opinion, sufficient to enable him to be satisfied on a matter specified in section 6(1)(a), (b), (c) or (d).

8 Appeal

- (1) A person who has submitted a claim may appeal in accordance with this section against the refusal of the Chief Inspector to certify it.
- (2) If, at the end of 2 months after the date on which the Chief Inspector receives:
 - (a) a claim submitted under this Act; or
 - (b) such further particulars as he requests under section 7,whichever is the later, the Chief Inspector has not certified the claim, he shall be deemed to have refused to certify it.
- (3) The appeal may be brought:
 - (a) in the Supreme Court; or
 - (b) in the Local Court, if within its jurisdictional limit.
- (4) The appeal shall be instituted by filing a notice of appeal in the office of the Court in which the appeal is brought and serving a copy of the notice on the Chief Inspector personally or by post.
- (5) The notice of appeal shall be filed and the copy served not later than 2 months after the date on which the Chief Inspector refuses, or is first deemed to have refused, to certify the claim.
- (6) The notice of appeal and the copy shall be entitled in the Court in which the appeal is brought and shall state the grounds relied on in support of the appeal.
- (7) The Court in which the appeal is brought shall hear the appeal and may:
 - (a) dismiss the appeal or make an order that such compensation be paid as the Court thinks fit; and
 - (b) make an order for the payment of such costs in the appeal as the Court thinks fit.
- (8) In making an order for the payment of costs in an appeal which is brought in the Supreme Court but which might have been brought in the Local Court, the Court shall consider whether or not:
 - (a) the difficulty of the law;
 - (b) the difficulty of the application of the law; or

(c) the complexity of the facts,

involved in the appeal is such that the appellant is justified in bringing the action in the Supreme Court.

9 Certified claim to be paid

Where, under section 6, the Chief Inspector has certified a claim to be payable the Minister shall, subject to this Act, cause the amount of the claim to be paid to the person submitting the claim.

10 Maximum amount of compensation payable

The amount payable as compensation under this Act for the destruction, under the *Stock Diseases Act*, of any animal or other property:

(a) shall not exceed:

- (i) in the case of an animal destroyed after it became infected with an exotic disease – the value of the animal immediately before it became so infected; or
- (ii) in any other case – the value which the animal or other property destroyed would have had immediately before the destruction if the animal or other property had not then been about to be destroyed in or as a result of the exercise of a power under the *Stock Diseases Act*; and

(b) shall:

- (i) where there is only one owner of the animal or other property – be paid to the owner; or
- (ii) where there is more than one owner of the animal or other property – be divided among those owners in accordance with their interests in the animal or other property at the time of its destruction.

11 No compensation for loss of profit, &c.

No compensation is payable under this Act for:

- (a) loss occasioned by breach of contract;
- (b) loss of production; or
- (c) any other loss the amount of which is not included in the amount payable under section 10.

12 No further compensation under other Act for loss compensated under this Act

Notwithstanding the provisions of any other Act where the Minister has caused compensation to be paid under this Act for loss occasioned by the destruction of any animal or other property, the Territory is not liable to pay any further compensation for loss occasioned by that destruction.

13 Minister may refuse or reduce compensation in certain cases

Notwithstanding section 9 where a claim is submitted by a person who has been found guilty of an offence against a provision relating to the control or eradication of an exotic disease in any Act or Act of the Commonwealth, the Minister may, in his discretion, refuse to cause any amount to be paid as compensation or cause to be paid as compensation such amount smaller than the amount of the certified claim as he thinks fit.

14 Penalty for untrue statement in claim

A person shall not, either orally or in writing, knowingly make an untrue statement in connection with or in support of a claim for compensation under this Act:

- (a) in the claim;
- (b) in a declaration or in particulars under section 5 or 7; or
- (c) to the Minister or Chief Inspector.

Penalty: \$2,000 or 6 months imprisonment.

15 Effect on action to prevent, &c., disease

Nothing in this Act shall operate to delay or prevent any action under the *Stock Diseases Act* to eradicate or prevent the spread of an exotic disease.

16 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters which by this Act 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 in particular:

- (aa) prescribing an animal to be an animal for the purposes of this Act;

- (a) prescribing the method of making valuations;
- (b) prescribing procedures to be followed in respect of compensation;
- (c) prescribing penalties not exceeding \$1,000 for offences against the regulations; and
- (d) prescribing a disease, parasite or pest in, or otherwise varying, the Schedule.

Schedule Exotic diseases

sections 3 and 16

African swine fever
Blue tongue
Foot and mouth disease
Fowl plague
Newcastle disease
Rabies
Rinderpest
Screw worm fly infestation
Swine fever (Hog cholera)
Swine vesicular disease
Vesicular exanthema
Vesicular stomatitis

ENDNOTES

1**KEY**

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2**LIST OF LEGISLATION*****Foot and Mouth Disease Compensation Ordinance 1958 (Act No. 18, 1958)***

Assent date	14 November 1958
Commenced	19 August 1964 (Gaz No. 33, 19 August 1964)

Foot and Mouth Disease Compensation Ordinance 1961 (Act No. 5, 1962)

Assent date	25 January 1962
Commenced	19 August 1964 (s 2, s 2 <i>Foot and Mouth Disease Compensation Ordinance 1958</i> (Act No. 18, 1958) and Gaz No. 33, 19 August 1964)

Foot and Mouth Disease Compensation Ordinance 1966 (Act No. 4, 1966)

Assent date	23 March 1966
Commenced	23 March 1966

Ordinances Revision Ordinance 1973 (Act No. 87, 1973)

Assent date	11 December 1973
Commenced	11 December 1973 (s 12(2))

Amending Legislation***Ordinances Revision Ordinance 1974 (Act No. 34, 1974)***

Assent date	26 August 1974
Commenced	11 December 1973 (s 3(2))

Ordinances Revision Ordinance (No. 2) 1974 (Act No. 69, 1974)

Assent date	24 October 1974
Commenced	11 December 1973 (s 3)

Ordinances Revision Ordinance 1976 (Act No. 27, 1976)

Assent date	28 June 1976
Commenced	ss 1, 2 and 6: 28 June 1976 (s 6(2)); ss 3 and 4: 11 December 1973; s 5: 24 October 1974

Foot and Mouth Disease Compensation Ordinance 1974 (Act No. 85, 1974)

Assent date 7 November 1974
 Commenced 1 January 1975 (Gaz No. 49, 5 December 1974)

Transfer of Powers (Self-Government) Ordinance 1978 (Act No. 54, 1978)

Assent date 1 July 1978
 Commenced 1 July 1978 (s 8)

Statute Law Revision Act (No. 2) 1979 (Act No. 128, 1979)

Assent date 15 October 1979
 Commenced 15 October 1979

Statute Law Revision Act (No. 3) 1979 (Act No. 37, 1980)

Assent date 24 April 1980
 Commenced 24 April 1980

Exotic Diseases (Animals) Compensation Act 1981 (Act No. 86, 1981)

Assent date 21 September 1981
 Commenced 21 September 1981

Statute Law Revision Act 1982 (Act No. 21, 1982)

Assent date 27 April 1982
 Commenced 27 April 1982

Exotic Diseases (Animal) (Screw Worm Fly Infestation) Compensation Regulations (SL No. 32, 1988)

Notified 6 July 1988
 Commenced 6 July 1988

Local Court (Consequential Amendments) Act 1989 (Act No. 14, 1989)

Assent date 5 June 1989
 Commenced 1 January 1991 (s 2, s 2 *Local Court Act 1989* (Act No. 31, 1989) and Gaz G49, 12 December 1990, p 2)

Exotic Diseases (Animals) Compensation Amendment Act 1990 (Act No. 6, 1990)

Assent date 2 April 1990
 Commenced 9 May 1990 (s 2, s 2 *Stock Diseases Amendment Act 1990* (Act No. 2, 1990) and Gaz G18, 9 May 1990, p 5)

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date 19 April 1996
 Commenced 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and Gaz S15, 13 June 1996)

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Ordinances Revision Ordinance 1973* (Act No. 87, 1973) (as amended) to the following provisions: ss 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14 and 15.

4 LIST OF AMENDMENTS

It	amd No. 86, 1981, ss 3 and 9
s 1	amd No. 86, 1981, ss 4 and 9
s 2	amd No. 86, 1981, s 9
s 3	amd No. 5, 1962, s 3; No. 4, 1966, s 2; No. 85, 1974, s 4; No. 86, 1981, ss 5 and 9; No. 6, 1990, s 3
s 4	amd No. 4, 1962, s 4; No. 5, 1962, s 4; No. 86, 1981, s 9
s 5	sub No. 5, 1962, s 5
s 6	amd No. 5, 1962, s 6; No. 86, 1981, s 9
s 7	amd No. 86, 1981, s 9; No. 21, 1982, s 2
s 8	amd No. 86, 1981, s 9; No. 14, 1989, s 7
s 9	amd No. 54, 1978, s 4; No. 86, 1981, s 9
s 10	sub No. 5, 1962, s 7
	amd No. 86, 1981, s 9
s 11	amd No. 86, 1981, s 9
s 12	amd No. 5, 1962, s 8; No. 54, 1978, s 4; No. 86, 1981, s 9
s 13	amd No. 54, 1978, s 4; No. 37, 1980, s 17; No. 86, 1981, s 9; No. 17, 1996, s 6
s 14	amd No. 54, 1978, s 4; No. 86, 1981, ss 6 and 9
s 15	amd No. 86, 1981, s 6
s 16	amd No. 87, 1973, s 6; No. 128, 1979, s 16; No. 86, 1981, ss 7 and 9
sch	ins No. 86, 1981, s 8
	amd SL No. 32, 1988