

# Animal Diseases and Animal Pests (Emergency Outbreaks) Regulation 2012

As at 10 September 2012

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Animal Diseases and Animal Pests (Emergency Outbreaks) Act 1991*.

Minister for Primary Industries

## **Explanatory note**

The object of this Regulation is to repeal and remake, with some amendments, the *Animal Diseases (Emergency Outbreaks) Regulation 2008*, which would otherwise be repealed on 1 September 2013 by section 10 (2) of the *Subordinate Legislation Act 1989*. The amendments are mostly consequential on the commencement of Schedule 1 to the *Primary Industries Legislation Amendment (Biosecurity) Act 2012* (which contains amendments to the *Animal Diseases (Emergency Outbreaks) Act 1991*, including an amendment to change the name of that Act to the *Animal Diseases and Animal Pests (Emergency Outbreaks) Act 1991*).

This Regulation:

- (a) sets out the circumstances in which a person (who has the authority of the Chief Veterinary Officer to be in possession of an animal disease agent) will be exempt from section 9 of the *Animal Diseases and Animal Pests (Emergency Outbreaks) Act 1991* ("**the Act**"),
- (b) sets out the circumstances in which a person (who has the authority of the Director-General to be in possession of an emergency animal pest) will be exempt from section 27B of the Act,
- (c) specifies the particulars required for a claim for compensation under Part 7 of the Act and the manner of making the claim,
- (d) prescribes certain offences under the Act as penalty notice offences and prescribes the penalties payable for those offences when dealt with by way of penalty notice,
- (e) prescribes inspectors, who are authorised in writing by the Chief Veterinary Officer, as authorised officers who may issue penalty notices.

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made under the *Animal Diseases and Animal Pests (Emergency Outbreaks) Act 1991*, including sections 9, 27B, 61, 71A and 78 (the general regulation-making power).

## **1 Name of Regulation**

This Regulation is the *Animal Diseases and Animal Pests (Emergency Outbreaks) Regulation 2012*.

## **2 Commencement**

This Regulation commences on 10 September 2012 and is required to be published on the NSW legislation website.

### 3 Definition

- (1) In this Regulation: "**the Act**" means the *Animal Diseases and Animal Pests (Emergency Outbreaks) Act 1991*.
- (2) Notes included in this Regulation do not form part of this Regulation.

### 4 Possession of animal disease agent

A person who has the authority of the Chief Veterinary Officer to be in possession of an animal disease agent is exempt from section 9 of the Act if the person has possession of the agent for the purpose of undertaking or assisting in:

- (a) the diagnosis of disease in humans or animals, or
- (b) the manufacture of vaccines, or
- (c) veterinary, medical or scientific research, or
- (d) activities of a kind specified in a written authority from the Chief Veterinary Officer.

### 5 Possession of emergency animal pests

A person who has the authority of the Director-General to be in possession of an emergency animal pest is exempt from section 27B of the Act if the person has possession of the pest for the purpose of undertaking or assisting in:

- (a) veterinary, medical or scientific research, or
- (b) activities of a kind specified in a written authority from the Director-General.

### 6 Claims for compensation

- (1) For the purposes of section 61 (a) of the Act, a claim for compensation must contain (but need not be limited to) the particulars specified in Schedule 1.
- (2) The claim must be signed by the following people:
  - (a) the person making the claim,
  - (b) an adult witness to the signature of the person making the claim,
  - (c) the inspector approved by the Chief Veterinary Officer to agree with the owner on the market value of the animal or property or the person jointly nominated by the Minister and the owner to determine the market value of the animal or property.
- (3) For the purposes of section 61 (b) of the Act, the manner of making the claim is by causing it to be delivered to an office of the Department.

### 7 Penalty notices

- (1) For the purposes of section 71A of the Act:
  - (a) each offence created by a provision of the Act specified in Column 1 of Schedule 2 is prescribed, and
  - (b) the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 2 opposite the relevant provision.
- (2) For the purposes of paragraph (b) of the definition of "**authorised officer**" in section 71A (10) of the Act, inspectors who are authorised in writing by the Chief Veterinary Officer to issue penalty notices under that section are prescribed.

### 8 Repeal and saving

- (1) The *Animal Diseases (Emergency Outbreaks) Regulation 2008* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Animal Diseases (Emergency Outbreaks) Regulation 2008*, had effect under that Regulation continues to have effect under this Regulation.

## Schedule 1 Claims for compensation

(Clause 6 (1))

Date of claim

Details of ownership

- (a) Name of each owner
- (b) Residential and postal address of each owner

Nature of each owner's interest in the animals or property

Details of animals in respect of which the claim is made

- (a) Itemised description of the animals destroyed pursuant to the Act or certified by an inspector as having died of an emergency animal disease
- (b) Place where the animals were ordinarily kept before their destruction or death
- (c) Date of destruction or death of the animals
- (d) Date of notification given to the Director-General or an inspector that the animal had been affected by, or had died of, an emergency animal disease (in the case of an animal that has died of an emergency animal disease)

Details of property in respect of which the claim is made

- (a) Itemised description of the property destroyed
- (b) Date of destruction of the property

Property means premises, animal products, fodder, fittings and vehicles.

Value of animals or property

- (a) Itemised market value of the animals or property in respect of which the claim is made, being a value determined:
  - (i) by agreement between the owner and an inspector, or
  - (ii) by a valuer nominated by the Minister and the owner
- (b) Total amount of compensation claimed

Details of certification of the death of the animal

- (a) Name of the inspector, authorised by the Chief Veterinary Officer, who certified that the animal died of an emergency animal disease
- (b) Whether the inspector certified that the animal died of a class A compensable disease or class B compensable disease
- (c) Date of the certification

Details of valuation

- (a) Name of the inspector with whom the owner agreed, under section 59 (1) of the Act, on the value of the animal or property, or
- (b) Name of the valuer nominated, under section 59 (2) of the Act, to determine the market value

Declaration by each owner

Declaration by each owner:

- (a) that the particulars and descriptions in the claim are correct, and
- (b) that the value is correct (if the value was reached by agreement with the owner)

Additional details and declaration (required if the claim is made by a person other than the owner or by a person who is not the sole owner)

- (a) Name, residential and postal address of the person making the claim
- (b) Description of the claimant's interest in the claim and how that interest was obtained
- (c) Declaration by the claimant:
  - (i) that the claimant has the authority of each owner to make the claim, and
  - (ii) that all the particulars and descriptions in the claim are correct

## Schedule 2 Penalty notice offences

(Clause 7)

Column 1	Column 2
Provision of the Act	Penalty
Section 9 (1)	\$1,100
Section 12 (1)	\$1,100
Section 16 (1)	\$1,100
Section 20 (3)	\$1,100
Section 22 (2)	\$1,100
Section 24 (4)	\$220
Section 26	\$220
Section 27B (1)	\$1,100
Section 27D (1)	\$1,100
Section 27G (1)	\$1,100
Section 27J (5)	\$1,100
Section 27L (2)	\$1,100
Section 27M (5)	\$220
Section 27O	\$220
Section 31	\$1,100
Section 38	\$1,100
Section 38A (4)	\$1,100
Section 40	\$1,100
Section 46 (4)	\$1,100
Section 69 (3)	\$220

### Historical notes

The following abbreviations are used in the Historical notes:

Am	amended	LW	legislation website	Sch	Schedule
Cl	clause	No	number	Schs	Schedules
Cl	clauses	p	page	Sec	section
Div	Division	pp	pages	Secs	sections
Divs	Divisions	Reg	Regulation	Subdiv	Subdivision
GG	Government Gazette	Regs	Regulations	Subdivs	Subdivisions
Ins	inserted	Rep	repealed	Subst	substituted

Table of amending instruments *Animal Diseases and Animal Pests (Emergency Outbreaks) Regulation 2012 (449)*. LW 7.9.2012. Date of commencement, 10.9.2012, cl

