

**The Diseases of Animals (Ascertainment of Compensation)
Order, 1959**

Made - - - - 28th July, 1959

Coming into Operation 1st September, 1959

The Minister of Agriculture, Fisheries and Food, as respects England and Wales, and the Secretary of State as respects Scotland, in exercise of the powers conferred upon them by sections 19 (7) and 85 of the Diseases of Animals Act, 1950(a), and of all other powers enabling them in that behalf, in so far as such powers are exercisable in relation to diseases specified in Article 3 (1) (a) of the Transfer of Functions (Animal Health) Order, 1955(b), and the said Minister and Secretary of State acting jointly in exercise of the aforesaid powers in so far as such powers are exercisable in relation to any other disease, hereby order as follows :—

Citation and Commencement

1. This Order may be cited as the Diseases of Animals (Ascertainment of Compensation) Order, 1959, and shall come into operation on the 1st day of September, 1959.

Interpretation

2.—(1) In this Order, unless the context otherwise requires :—

“the Act” means the Diseases of Animals Act, 1950, as amended or extended by any other enactment ;

“animal” shall include any beast to which, whether before or after the making of this Order, any provisions of the Act are for the time being extended by an Order made under section 84 of the Act ; and “bird” shall include any bird to which any such provisions are likewise extended by such an Order ;

“the Minister” means the Minister of Agriculture, Fisheries and Food.

(2) The Interpretation Act, 1889(c), shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Ascertainment of Value for Compensation in England and Wales

3. Where under the Act, it is necessary, in England or Wales, that the value of an animal or bird slaughtered or liable to be slaughtered should be ascertained for the purpose of settling compensation payable by the Minister

in respect of the animal or bird, the value shall, subject to the provisions of that Act or of any Order made under it, be ascertained as follows :—

- (i) As soon as practicable the Minister shall cause a statement in writing of the amount of the valuation of the animal or bird made by him to be given to the owner of the animal or bird, (hereinafter referred to as "the owner").
- (ii) If within fourteen days after the owner has received the statement furnished to him in accordance with the last foregoing paragraph, he has not given a counter-notice in writing to the effect that he disputes the valuation specified in the notice, the compensation shall be paid on that valuation.
- (iii) Where the owner has given a counter-notice as aforesaid, the question of the value of the animal or bird shall by virtue of this Order stand referred to the arbitration of a single arbitrator, and the provisions of the Arbitration Act, 1950(a), shall apply to the reference and arbitration as if the same were pursuant to a submission, except in so far as that Act is inconsistent with the provisions of this Article.
- (iv) An arbitrator may be appointed by an agreement in writing signed by an officer of the Ministry of Agriculture, Fisheries and Food and by the owner.
- (v) If no such agreement is entered into within fourteen days after the service of the counter-notice given by the owner, either party may, having given notice to the other party of his intended application, apply to the President of the Chartered Auctioneers' and Estate Agents' Institute to appoint an arbitrator, and the President may accordingly appoint an arbitrator, as if he were a court or judge within the meaning of the Arbitration Act, 1950.

Ascertainment of Value for Compensation in Scotland

4. Where under the Act it is necessary in Scotland that the value of an animal or bird, slaughtered or liable to be slaughtered, should be ascertained for the purpose of settling compensation payable by the Secretary of State or, as the case may be, the Minister in respect of the animal or bird, the value shall, subject to the provisions of that Act or of any Order made under it, be ascertained as follows :—

- (i) As soon as practicable the Secretary of State, or, as the case may be, the Minister, shall cause a statement in writing of the amount of the valuation of the animal or bird made by him to be given to the owner of the animal or bird (hereinafter referred to as "the owner").
- (ii) If, within fourteen days after the owner has received the statement furnished to him in accordance with the last foregoing paragraph, he has not given a counter-notice in writing to the effect that he disputes the valuation specified in the notice, the compensation shall be paid on that valuation.
- (iii) Where the owner has given a counter-notice as aforesaid, the question of the value of the animal or bird shall be referred to and be determined by a single arbiter.
- (iv) If the Secretary of State, or, as the case may be, the Minister and the owner fail to agree upon an arbiter within fourteen days after the counter-notice aforesaid has been given by the owner to the Secretary of State, or the Minister as the case may be, an arbiter shall be appointed by the President of the Institute of Auctioneers and Appraisers in Scotland on the written application of either party made to him.

- (v) If the arbiter so appointed fails to make his award within thirty days after the matter has been referred to him, his appointment as arbiter shall be deemed to have been recalled and the reference to him to have been withdrawn and no fees or expenses shall be paid, nor any other payment made to him in respect of the reference.

Saving for certain other modes of ascertainment of value

5. Nothing in this Order shall apply to the ascertainment of the value of any animal or bird where any other mode of ascertaining such value is provided by the Act or any Order made under it.

Revocation

6.—(1) Articles 13 and 14 of the Animals (Miscellaneous Provisions) Order of 1927(a), are hereby revoked save that the aforesaid articles shall continue to apply for the purpose of ascertaining the value of any animal or bird slaughtered or liable to be slaughtered at any premises during the currency of a notice which—

- (a) was in force in respect of the premises immediately before the coming into operation of this Order ;
- (b) is one of the notices specified in the Schedule to this Order, and ;
- (c) relates to the disease on account of which the animal or bird was, or is liable to be, slaughtered.

(2) Any references in any other Order made under the Act to the Articles so revoked shall be construed as references to the corresponding provisions of this Order.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed this twenty-fourth day of July, nineteen hundred and fifty-nine.

(L.S.)

John Hare,

Minister of Agriculture, Fisheries and Food.

Given under the Seal of the Secretary of State for Scotland this twenty-eighth day of July, nineteen hundred and fifty-nine.

(L.S.)

John S. Maclay,

Secretary of State for Scotland.

SCHEDULE

NOTICES REFERRED TO IN ARTICLE 6 OF THE ORDER

Form A set forth in the First Schedule to the Foot-and-Mouth Disease Order of 1928(b).

Form A set forth in the Schedule to the Fowl Pest Order of 1936(c).

Form A set forth in the First Schedule to the Swine Fever Order of 1938(d).

Notice served under Article 4 of the Atrophic Rhinitis Order, 1954, requiring swine on premises specified in the Order to be detained(e).

(a) S.R. & O. 1927/290 (Rev. II, p. 449: 1927, p. 78).

(b) S.R. & O. 1928/133 (Rev. II, p. 499: 1928, p. 94).

(c) S.R. & O. 1936/1297 (Rev. XVIII, p. 442: 1936 II, p. 2086).

(d) S.R. & O. 1938/203 (Rev. II, p. 639: 1938 I, p. 273).

(e) S.I. 1954/699 (1954 I, p. 123).

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order, which comes into operation on the 1st September, 1959, re-enacts with minor amendments the provisions of Articles 13 and 14 of the Animals (Miscellaneous Provisions) Order of 1927. It prescribes how the value of an animal slaughtered under the Diseases of Animals Act, 1950, by the direction of the Minister of Agriculture, Fisheries and Food or Secretary of State for Scotland is to be ascertained and, if the value is not agreed, provides that it shall be ascertained by arbitration. It does not apply where any enactment or statutory instrument provides any other method for ascertaining values.