

**ANIMALS ACT, 1977**

**New South Wales**



ANNO VICESIMO SEXTO

**ELIZABETHÆ II REGINÆ**

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**Act No. 25, 1977.**

An Act relating to liability for damage caused by animals.  
[Assented to, 13th April, 1977.]

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*Animals.*

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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**PART I.**

**PRELIMINARY.**

1. This Act may be cited as the "Animals Act, 1977". Short title.

2. This Act is divided as follows :—

Division  
of Act.

PART I.—PRELIMINARY—*ss.* 1-3.

PART II.—ABOLITION OF CERTAIN MATTERS—*ss.* 4,  
5.

PART III.—LIABILITY FOR ANIMALS—*ss.* 6-10.

PART IV.—MISCELLANEOUS—*ss.* 11, 12.

SCHEDULES.

3. This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities. **Act binds the Crown.**

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**PART**

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## PART II.

## ABOLITION OF CERTAIN MATTERS.

Cattle-  
trespass.

4. (1) The tort of cattle-trespass is abolished.
- (2) Subsection (1) does not affect—
- (a) the construction of a reference in any Act to a trespassing animal;
  - (b) the tort of trespass committed by a person by means of cattle; or
  - (c) the law relating to liability of an occupier of land for death of or injury to cattle trespassing on the land.

Distress  
damage  
feasant.

5. The remedy at common law of distress of an animal damage feasant is abolished.

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PART III.

## LIABILITY FOR ANIMALS.

Interpret-  
ation.

6. In this Part—
- “liability” means liability in damages for tort;
- “occupier” means, in relation to any premises, a person who is an occupier of the premises for the purposes of the law relating to the liability of occupiers for damage arising from dangers to persons entering premises, being dangers due to the state of the premises or due to things done or left undone on the premises;

“premises”

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“premises” means any land, structure (fixed or movable), vessel, aircraft or other vehicle.

7. (1) Liability for damage caused by an animal depends on so much of the law relating to liability as does not include the common law abrogated by subsection (2).

General liability for damage by an animal.

(2) Any common law qualification, restriction, exclusion, extension or imposition of liability that had effect immediately before the commencement of this Act and related exclusively to liability for damage caused by an animal is hereby abrogated, whether or not—

- (a) it related to the nature or propensity of an animal or any class of animal, or knowledge of any such nature or propensity; or
- (b) it applied generally or in the circumstances of escape on to a highway or in any other particular circumstances.

8. Where damage results from a danger to a person entering premises, being a danger due to the state of the premises or due to things done or left undone on the premises, the liability (if any) of a person as an occupier of the premises in respect of the damage depends only on the law relating to the liability of occupiers, notwithstanding that the danger is, or is associated with, the presence or behaviour of an animal in or on the premises.

Danger from presence or behaviour of animal on premises.

9. The rule in *Rylands and Fletcher* does not apply in relation to damage caused by an animal.

Restriction of rule in *Rylands v. Fletcher* (1868) L.R. 3 H.L. 330.

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Evidence  
of breach  
of duty in  
certain  
cases.

**10.** (1) Subject to subsection (2), where—

- (a) an animal is in or on any premises and the occupier of the premises—
  - (i) may not lawfully prevent the animal from being in or on the premises; or
  - (ii) in any other case—has not consented to the presence of the animal in or on the premises;
- (b) a person other than the occupier of the premises was, at the time the animal was in or on the premises, under a duty to another person to take reasonable care that the other person would not be subjected to the danger of the animal causing damage to him; and
- (c) the animal causes damage to that other person while it is in or on the premises,

the fact that the animal was in or on the premises when the damage was caused is evidence of breach of the duty.

(2) Subsection (1) does not apply—

- (a) where the premises concerned are a place used by the public as a road or way; or
- (b) where the animal concerned is a dog or cat.

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**PART**

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PART IV.

MISCELLANEOUS.

11. Schedule 1 has effect.

Transitional provisions.

12. An Act specified in Column 1 of Schedule 2 is amended in the manner set forth opposite that Act in Column 2 of Schedule 2. Amendment of Acts.

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SCHEDULE 1.

Sec. 11.

TRANSITIONAL PROVISIONS.

1. Section 4 (1) does not apply to a case of cattle-trespass where the cause of action accrued before the commencement of this Act.

2. Section 5 does not apply to or in respect of an animal distrained damage feasant before the commencement of this Act.

3. Part III does not apply to or in respect of any question of liability within the meaning of that Part where the acts or omissions giving rise to that question occurred before the commencement of this Act.

4. Nothing in this Schedule affects any saving under the Interpretation Act, 1897.

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SCHEDULE

*Animals.***Sec. 12.****SCHEDULE 2.****AMENDMENT OF ACTS.**

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1898, No. 6 . .	Impounding Act, 1898.	Section 58— Omit the section, insert instead:— Action for 58. The existence of any right damages given by this Act or its exercise preserved. shall not prevent any person from maintaining an action for damages on a cause of action he would have otherwise.
1913, No. 7 . .	Crown Lands Consolidation Act, 1913.	Section 250 (1)— Omit "trespass committed by stock", insert instead "the recovery of damages for damage caused by stock trespassing". Section 250 (3)— Omit "trespass in respect thereof", insert instead "the recovery of damages for damage caused by the stock trespassing".
1919, No. 41 . .	Local Government Act, 1919.	Section 444 (2)— Omit the subsection, insert instead:— (2) The existence of any right given by this Part or its exercise shall not prevent any person from maintaining an action for damages on a cause of action he would have otherwise.
1953, No. 39 . .	Lord Howe Island Act, 1953.	Section 32 (2)— Omit "sue the owners of such stock for trespass", insert instead "recover damages for damage caused by the stock trespassing".