

ANIMALS ACT 1985

- LONG TITLE

An Act to amend the law relating to liability for damage done by animals and the law relating to the impounding of animals, and to provide for connected matters.

[12th June, 1985]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS: -

SECT 1 Interpretation.

1.—(1) In this Act— "the Act of 1851" means the Summary Jurisdiction (Ireland) Act, 1851; "the Act of 1935" means the Pounds (Provision and Maintenance) Act, 1935; "animal", except in section 2, means a bovine animal, horse, ass or other equine animal, sheep or goat; "damage" includes the death of, or injury to, any person (including any disease and any impairment of a person's physical or mental condition) and injury to or total or partial destruction of property; "local authority" has the meaning assigned to it by section 1 of the Act of 1935; "the Minister" means the Minister for Justice; "public road" means a road the responsibility for the maintenance of which lies on a road authority and includes a toll road within the meaning of the Local Government (Toll Roads) Act, 1979, and, for the purposes of section 2, also includes any highway; "road authority" means— (a) the council of a county, (b) the corporation of a county or other borough, or (c) the council of an urban district. (2) In this Act a reference to a section is to a section of this Act, unless it is indicated that reference to some other enactment is intended. (3) In this Act a reference to a subsection or paragraph is to the subsection or paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended. -

SECT 2 Duty to take care to prevent damage by animals straying on to public road.

2.—(1) So much of the rules of the common law relating to liability for negligence as excludes or restricts the duty which a person might owe to others to take such care as is reasonable to see that damage is not caused by an animal straying on to a public road is hereby abolished. (2) (a) Where damage is caused by an animal straying from unfenced land on to a public road, a person who placed the animal on the land shall not be regarded as having committed a breach of the duty to take care by reason only of placing it there if— (i) the land is situated in an area where fencing is not customary, and (ii) he had a right to place the animal on that land. (b) In this subsection "fencing" includes the construction of any obstacle designed to prevent animals from straying, and "unfenced" shall be construed accordingly.

- SECT 3 Amendment of Dogs Act, 1906.

3.—The Dogs Act, 1906, is hereby amended by the substitution of the following section for section 1:
"1.—(1) The owner of a dog shall be liable in damages for damage caused in an attack on any person by the dog and for injury done by it to any cattle; and it shall not be necessary for the person seeking such damages to show a previous mischievous propensity in the dog, or the owner's knowledge of such previous propensity, or to show that such injury or damage was attributable to neglect on the part of the owner. (2) Where any such damage or injury has been done by a dog, the occupier of any premises where the dog was kept or permitted to live or remain at the time of the damage or injury shall be presumed to be the owner of the dog, and shall be liable in damages for the damage or injury unless he proves that he was not the owner of the dog at that time: provided that where there is more than one dwelling in any house, the occupier of the particular dwelling in which the dog has been kept or permitted to live or remain at the time of the damage or injury shall be presumed to be the owner of the dog, unless the contrary is proved. (3) Where a dog is proved to have caused damage in an attack on any person, or to have injured cattle or chased sheep, it may be dealt with under section 2 of the Dogs Act, 1871, as a dangerous dog. (4) Where cattle are injured by a dog on land on to which they had strayed, and either the dog belonged to the occupier of the land or its presence on the land was authorised by the occupier, a person is not liable under this section in respect of injury done to the cattle, unless the person caused the

dog to attack the cattle. (5) A person is liable in damages for any damage caused by a dog kept on any premises or structure to a person trespassing thereon only in accordance with the rules of law relating to liability for negligence. (6) (a) Any damage or injury for which a person is made liable under this section shall be deemed to be attributable to a wrong within the meaning of the Civil Liability Act, 1961, and the provisions of that Act shall apply accordingly. (b) paragraphs (a) and (b) of subsection (2) of section 11 of the Statute of Limitations, 1957, shall apply in relation to any such damage. (7) In this section— 'damage' has the same meaning as in the Animals Act, 1985; 'premises' includes any house or land."

- SECT 4 Impounding of certain wandering or trespassing animals by Garda Síochána or local authorities.

4.—(1) In this section— "public place" means any street, road or other place to which the public have access with vehicles whether as of right or by permission and whether subject to or free of charge; and "State authority" means a Minister of the Government or the Commissioners of Public Works in Ireland. (2) (a) Subject to paragraph (b), a member of the Garda Síochána or any local authority may impound any animal found wandering on a public road or in any public place, or trespassing on any public park or open space which is owned or occupied by a local authority or a State authority. (b) In relation to any such public park or open space, the power to impound conferred by paragraph (a) may be exercised only on request by the authority by which such public park or open space is owned or occupied. (3) The Commissioners of Public Works in Ireland may impound any animal found trespassing on any public park which is under the control and management of the Commissioners. (4) Paragraph 11 of section 10 of the Act of 1851 and section 20 of that Act shall not apply in relation to the impounding of an animal by a member of the Garda Síochána or by a local authority or by the Commissioners of Public Works in Ireland. (5) Where an animal is impounded in pursuance of the powers conferred by this section, the authority by which the animal is impounded may recover the cost of transporting the animal to the pound from the owner of the animal as a simple contract debt in any court of competent jurisdiction.

- SECT 5 Impounding other than under Act of 1935.

5.—(1) In this section "private pound" means a pound which is not a pound provided under the Act of 1935. (2) Notwithstanding anything contained in the Act of 1935 or in regulations thereunder, it shall be lawful for any local authority to enter into arrangements for the impounding in a private pound of any animal by a member of the Garda Síochána or by a local authority or by the Commissioners of Public Works in Ireland. (3) The Minister may make regulations for all or any of the following matters in relation to animals impounded in private pounds:— (a) the notices to be given or displayed in connection with the impounding of such animals; (b) the fees to be paid by the owner of such animals; (c) the provision of veterinary services for such animals; (d) the transfer of animals so impounded to pounds provided under the Act of 1935; (e) the sale, disposal or destruction, pursuant to an order of the local authority in whose functional area the private pound is situated, of animals so impounded of which the owner is unknown or cannot be found and the time after which such sale, disposal or destruction shall take place; (f) the sale, disposal or destruction, pursuant to an order of the local authority in whose functional area the private pound is situated, of animals so impounded of which the owner is known, where the owner, on request by the person in charge of the private pound, fails to pay the prescribed fees or to remove the animals from the pound; (g) the disposal of any moneys realised by any sale under paragraph (e) or (f); (h) the standard to be applied to pounds and to the care of animals therein. (4) Any balance of the expenses incurred by a local authority in connection with a private pound within its functional area after deduction of any moneys realised by any sales of animals, of which the owner is unknown or cannot be found, carried out in accordance with regulations made by the Minister under subsection (3) and of fees paid by the owners of animals in accordance with such regulations shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. (5) Any person who does any act (whether of commission or omission) in contravention of any regulation made under this section shall be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding £500 or to imprisonment for any term not exceeding six months or, at the discretion of the court, to both such fine and such imprisonment. (6) Every person who— (a) damages or breaks into any private pound, (b) releases from or takes out of any private pound any animals lawfully impounded therein, or (c) uses violence, threats or bribes for the purpose of

securing the release from or the taking away of any animals lawfully impounded in any private pound, shall be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding £750 or to imprisonment for any term not exceeding nine months or, at the discretion of the court, to both such fine and such imprisonment.

- SECT 6 Provisions relating to certain residential areas.

6.—(1) In this section— "development" has the meaning assigned to it by section 3 of the Local Government (Planning and Development) Act, 1963; "planning permission" means permission for the development of land granted under Part IV of that Act; "superintendent" means a superintendent of the Garda Síochána and includes an inspector of the Garda Síochána acting as a superintendent. (2) This section shall apply in relation to any land in respect of which— (a) planning permission has been obtained for any residential development, and (b) the development (including maintenance of roads until taken in charge by the local authority concerned) has not been completed. (3) A local authority may by order designate any land in its functional area to which this section applies, or any portion of such land, to be a designated area for the purposes of this section, and may revoke a designation under this subsection. (4) In any proceedings in respect of damage caused by an animal which has strayed from land which is for the time being a designated area, the occupier of the land shall, in any case where such occupier has not given permission for the animal to be on the land, be liable for the damage caused as if he were the owner of such animal. (5) Notwithstanding subsection (4), the occupier of land which is for the time being a designated area shall not be liable for any damage caused as aforesaid during the period specified in a notice which is in accordance with subsection (6), in any case where he has given such notice to the local authority in whose functional area the land is situated and to the superintendent of the district in which the land is situated. (6) The notice referred to in subsection (5) shall be to the effect that, in respect of the period specified in the notice, the occupier of the land does not intend to give permission to any person, save for such persons as may be specified in the notice, to allow any animal to be on the land and shall authorise the local authority in whose functional area the land is situated and the Garda Síochána to remove any animal not so allowed to be on it. (7) Section 4 shall apply in relation to any animal removed from a designated area on foot of an authorisation given in a notice which is in accordance with subsection (6) as if such animal had been found wandering in a public place or trespassing on an open space owned by a local authority.

- SECT 7 Miscellaneous amendments.

7.—Each provision of an Act mentioned in column (1) of the Table to this section is hereby amended in the manner stated in column (2) of that Table opposite the mention of that provision in column (1).
TABLE Provision of Act amended (1) Nature of Amendment (2)
Paragraph 1 of section 10 of the Act of 1851 as amended by the Decimal Currency Act, 1970). The substitution of "shall be liable on summary conviction, in the case of a first offence under this paragraph, to a fine not exceeding £150 and, in the case of a second or subsequent such offence, to a fine not exceeding £350 for "shall be liable to a fine not exceeding fifty new pence". Paragraph 11 of section 10 of the Act 1851 (as amended by the Decimal Currency Act, 1970). The substitution of "shall be liable on summary conviction, in the case of a first offence under this paragraph, to a fine not exceeding £150 and, in the case of a second or subsequent such offence, to a fine not exceeding £350 for "shall be liable to a fine not exceeding ten new pence". Section 8 (1) of the Act of 1935. The substitution of the following paragraph for paragraph (e): " (e) the sale, disposal or destruction, pursuant to an order of the local authority in whose functional area the Pound is situated, of animals found trespassing, wandering or straying, or of chattels, of which the owner is unknown or cannot be found, and the time after which such sale, disposal or destruction shall take place;" The insertion of the following paragraphs after the said paragraph (e): " (ee) the sale, disposal or destruction, pursuant to an order of the local authority in whose functional area the pound is situated, of impounded animals of which the owner is known where the owner, on request by the pound keeper, fails to pay the prescribed fees or to remove the animals from the pound; (eee) the notices to be given or displayed in connection with the impounding of animals;" The substitution, in paragraph (f), of "paragraphs (e) and (ee)" for "the next preceding paragraph". Section 8 (2) of the Act of 1935. The substitution of "£500" for "twenty pounds". Section 9 of the Act of 1935. The substitution of "£750" for "fifty pounds".

- SECT 8 Repeals.

8.—Sections 24 and 25 of the Town Police Clauses Act, 1847, paragraphs 7 and 8 of section 19 of the Act of 1851 and section 71 of the Towns Improvement (Ireland) Act, 1854, are hereby repealed. - SECT 9
Short title and commencement. 9.—This Act may be cited as the Animals Act, 1985, and shall come into operation on such date as the Minister shall by order appoint.