



## Law of Animals Act 1962

**An Act to consolidate and reform certain enactments and rules of common law relating to animals**

**[Royal Assent 14 February 1963]**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### **PART I - Preliminary**

#### **1. Short title and commencement**

This Act may be cited as the *Law of Animals Act 1962* and shall commence on the day on which the *Local Government Act 1962* commences.

#### **2. Interpretation**

In this Act, unless the contrary intention appears –

*owner* –

(a) in relation to an animal includes any servant or agent of the owner having charge of the animal; and

(b) in relation to land means the person in possession thereof, his servants, and agents;

*pound* means a pound established under the *Local Government Act 1993*.

### **PART II - Distress Damage Feasant**

#### **3. Limitation of right of distress**

The right to distrain trespassing animals is subject to the provisions of this Part.

#### **4. Distance**

For the purposes of this Part, distance shall be reckoned by the shortest route practicable in the circumstances and distances less than a kilometre shall be disregarded in determining which is the shorter of 2 routes.

## **5. Impounding in private pounds**

(1) An owner who distrains a trespassing animal and detains it on his own land –

(a) shall, as soon as practicable after finding the animal –

(i) inform the officer in charge of the nearest police station, if orally, confirming the information in writing as soon as practicable; and

(ii) give notice in writing to the owner of the animal, if known to him, and if not to the keeper of the nearest pound –

of the particulars mentioned in section 6(2);

(b) is bound to comply with the provisions of the Animal Welfare Act 1993 in respect of the animal;

(c) may recover from the owner of the animal the charges prescribed under the Local Government Act 1993 for keep, giving notice of impounding, and damage done by the animal in trespassing; and

(d) may at any time deal with the animal as provided in section 6.

(2) Where an animal detained on the distraining owner's land is dealt with as provided in section 6 within 24 hours after it is found trespassing, it is unnecessary to comply with subsection (1)(a).

(3) If an animal detained on the distraining owner's land appears to be too sick or injured reasonably to be removed to a pound the distraining owner may apply to a justice for authority to destroy the animal, and the justice, after such inquiry and inspection as he thinks sufficient, may give his authority accordingly by warrant under his hand, and shall therein direct and authorize the disposition of the carcase and of the proceeds of sale, if any, of the carcase or any part of it.

(4) If an owner who has distrained a trespassing animal contravenes this section in respect of it his detention of the animal thereafter is unlawful.

(5) A person who has not complied with paragraph (a) of subsection (1) within 24 hours of finding the animal trespassing shall be deemed to have contravened the paragraph unless he proves that he did comply therewith as soon as practicable.

## **6. Impounding in municipal pounds**

(1) An owner who distrains an animal trespassing on his land, if the place where the animal found trespassing is –

(a) within 8 kilometres of a pound, shall as soon as practicable after finding the animal; or

(b) not within 8 kilometres of a pound, may –

drive or take the animal to the nearest pound, and there deliver it to the poundkeeper to be impounded.

(2) With the animal he shall deliver to the poundkeeper a written statement specifying –

(a) his name, address, and degree, profession, or calling;

(b) the description of the animal;

(c) the marks and brands thereon as far as they can be ascertained;

(d) the name of the owner, if known to him;

(e) the place where the animal was found trespassing; and

(f) the amount of the driving or transport charges and the damages, if any, claimed by him.

(3) If the place where the animal is found trespassing is the same distance from 2 or more pounds the owner may cause the animal to be impounded at either or any of those pounds.

(4) If the poundkeeper is absent from the nearest pound, the owner may cause the animal to be impounded at some other convenient pound.

## **7. Right of owner to recover possession**

(1) The owner of an animal which is, or is being, or is liable to be, taken as a distress for damage done may recover the possession of the animal upon payment of all charges lawfully due under the *Local Government Act 1993* in respect of the animal at the time recovery is claimed by him or on his behalf.

(2) If recovery is claimed under this section before or during the taking of the animal to the pound, the person having possession of the animal shall inform the person making the claim of the name of the person on whose behalf the animal is held and of the amount of the charges which he claims to be then due.

(3) If the owner of an animal taken for distress thinks that the amount –

(a) stated by the poundkeeper to be due in respect of it, in the case of an animal received into the pound; or

(b) claimed as provided in subsection (2), in the case of an animal not yet received into a pound –

is excessive or that the impounding is unlawful he may pay under protest, and the person receiving payment shall give to the person making it a receipt, if required, acknowledging that the payment is made under protest, and the owner may proceed as provided in section 8.

(4) A person who fails to give up an animal to a person entitled to recover possession of it under this section is liable to a fine not exceeding 5 penalty units.

(5) When any animal is released from a pound under this section the poundkeeper shall retain the fees, charges, and damages paid in respect of it until the expiration of the time limited for taking proceedings under section 8 in respect of the impounding or until the determination of such proceedings, if commenced.

#### **7A. Rescue and illegal impounding of distress damage feasant**

A person who –

(a) impounds or detains any animal unlawfully; or

(b) rescues any animal impounded or seized for the purpose of impounding –

as a distress damage feasant is guilty of an offence and is liable on summary conviction to a penalty not exceeding 3 penalty units.

#### **8. Proceedings alternative to replevin**

(1) Within 7 days after any payment has been made under protest, as provided by section 7, the owner of the animal in respect of which the payment was made may proceed to dispute –

(a) the amount of the fees, charges, or damages claimed in respect of the animal; or

(b) the legality of the impounding –

by way of action under the Magistrates Court (Civil Division) Act 1992.

(2) The person to whom payment was made shall be a defendant in an action under this section and where the plaintiff disputes the legality of the impounding the person impounding the animal shall also be a defendant.

(3) If on the hearing of the action the court is satisfied –

(a) that the amount of the fees, charges, and damages demanded in respect of the animal is excessive, it may –

(i) assess the amount of the fees, charges, and damages due; and

(ii) order the repayment to the owner of the animal of any amount paid in excess of the amount so assessed; and

(b) that the impounding was unlawful, it may order –

(i) the repayment to the owner of the fees, charges, and damages paid by him;

(ii) the payment of any such fees, charges, and damages to the poundkeeper by the person impounding the animal; and

(iii) the payment to the owner by the person impounding the animal of such compensation, not exceeding \$60, as the court thinks fit.

(4) The court may hear and determine the action, notwithstanding that the amount in dispute exceeds the limits of its jurisdiction.

## **9. Search for lost stock**

(1) The owner of any domestic animals who has reasonable grounds for believing that any of them are on the land of another person and who –

(a) has been refused permission by that other person to search for them on his land; or

(b) owing to the absence of that other person from the neighbourhood or for any other satisfactory reason is unable to communicate with that other person within reasonable time –

may apply to a justice for authority to enter and search that land for the animals.

(2) The justice may give to the owner a warrant under his hand subject to such terms and conditions as to the justice seem reasonable, and any such terms and conditions shall be set forth in the warrant.

(3) A warrant under this section, subject to any terms and conditions thereby imposed, authorizes and empowers the owner, if accompanied by an inspector of stock or police officer, to enter on the land and search for the animals and to remove therefrom all animals belonging to him which may be found thereon, and for that purpose to employ such assistants, horses, and dogs as may be reasonably necessary.

## **10. Saving of other Acts and of common law remedies**

(1) This Part does not –

(a) affect the provisions of any other enactment in relation to animals straying or grazing; or

(b) affect or take away the right of any person to bring an action for trespass or any other action or any remedy available to any person at common law –

except as provided in sections 5 and 6 and in this section.

(2) . . . . .

(3) An action in the nature of an action of replevin may not be brought to recover from a poundkeeper possession of an animal detained in his pound.

**PART III - . . . . .**

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**PART IV - Animals Straying on to a Highway**

**18. Interpretation: Part IV**

In this Part, *damage* includes the death of, or injury to, a person.

**19. Liability for negligence for animals straying on to a highway**

(1) So much of the common law relating to liability for negligence as excludes or restricts the duty which a person may owe to others to take reasonable care to see that damage is not caused by an animal straying on to a highway is hereby abolished.

(2) The common law as amended by subsection (1) applies in respect of damage caused on or after the commencement of the Law of Animals Amendment Act 1985 by an animal straying on to a highway.

**Table Of Amendments**

<b>Act</b>	<b>Number and year</b>	<b>Date of commencement</b>
Law of Animals Act 1962	No. 70 of 1962	1.1.1964
Decimal Currency Act 1965	No. 55 of 1965	14.2.1966
Metric Conversion Act 1973	No. 75 of 1973	1.4.1975
Law of Animals Amendment Act 1985	No. 15 of 1985	15.5.1985
Dog Control Act 1987	No. 112 of 1987	20.1.1988
Penalty Units and Other Penalties Amendment Act 1991	No. 43 of 1991	18.12.1991
Statute Law Revision Act 1994	No. 68 of 1994	25.11.1994
Local Government (Consequential Amendments) Act 1995	No. 30 of 1995	1.9.1995
Magistrates Court (Civil Division) Amendment Act 1993	No. 73 of 1993	30.3.1998 (remaining provisions)
Police Offences Amendment Act 2014	No. 15 of 2014	19.12.2014