

AUSTRALIAN CAPITAL TERRITORY

Civil Liability (Animals) Ordinance 1984

No. 36 of 1984

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 16 July 1984.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

TOM UREN
Minister of State for Territories and Local Government

An Ordinance relating to civil liability for damage caused by animals

Short title

1. This Ordinance may be cited as the *Civil Liability (Animals) Ordinance 1984*.¹

Ordinance to bind Crown

2. This Ordinance binds the Crown.

Interpretation

3. In this Ordinance, unless the contrary intention appears—

“liability” means liability for damages for tort;

“premises” includes any land or building, any structure (whether movable or otherwise) erected upon any land and any vehicle, vessel or aircraft.

Abolition of action of cattle-trespass

4. (1) The common law action of cattle-trespass is abolished.
- (2) Nothing in this section affects—
- (a) the common law action for trespass committed by a person by means of cattle; or
 - (b) the law relating to liability of an occupier of land for death of, or injury to, cattle trespassing on the land.

Abolition of distress damage feasant

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

Abolition of rules relating exclusively to liability for damage by an animal

6. The common law rule known as the rule in *Searle v. Wallbank* and all other common law rules relating exclusively to liability for damage caused by an animal (including any rule relating to the nature or propensity of an animal, or a class of animals, or knowledge of that nature or propensity) are abolished.

Abolition of rule in *Rylands v. Fletcher*

7. The common law rule known as the rule in *Rylands v. Fletcher* is abolished to the extent to which the rule applies to or in relation to damage caused by the escape of animals.

Evidence of breach of duty in certain cases

8. (1) Subject to sub-section (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) 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) Sub-section (1) does not apply—

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

Application

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

(2) Section 5 does not apply to or in respect of the distraint of an animal damage feasant before the commencement of this Ordinance.

(3) Sections 6, 7 and 8 do not apply to or in respect of any question of liability where the acts or omissions giving rise to that question occurred before the commencement of this Ordinance.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 23 July 1984.