



Australian Capital Territory

Civil Liability (Animals) Act 1984 No 36 (repealed)

Republication No 4

Effective: 2 November 2002

Republication date: 4 November 2002

As repealed by Act 2000 No 40

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Civil Liability (Animals) Act 1984* (repealed) (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)). It also includes any commencement, amendment, repeal or expiry affecting the republished law to 2 November 2002.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Civil Liability (Animals) Act 1984 (repealed)

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Civil Liability (Animals) Act 1984 (repealed)

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Australian Capital Territory

Civil Liability (Animals) Act 1984 (repealed)

An Act relating to civil liability for damage caused by animals

1 Name of Act

This Act is the *Civil Liability (Animals) Act 1984*.

3 Definitions for Act

In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

liability means liability for damages for tort.

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

4 Abolition of action of cattle-trespass

- (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, or injury to, cattle trespassing on the land.

5 Abolition of distress damage feasant

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

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

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.

7 Abolition of rule in *Rylands v. Fletcher*

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.

8 Evidence of breach of duty in certain cases

- (1) Subject to subsection (2), if—
- (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; and
 - (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 the other person; 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) if the premises concerned are a place that is open to or used by the public as a road; or
 - (b) if the animal concerned is a dog or cat.

9 Application

- (1) Section 4 does not apply to a case of cattle-trespass if the cause of action accrued before the commencement of this Act.
- (2) Section 5 does not apply to or in relation to the distraint of an animal damage feasant before the commencement of this Act.
- (3) Sections 6, 7 and 8 do not apply to or in relation to any question of liability if the acts or omissions giving rise to that question occurred before the commencement of this Act.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	RI = reissue
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

This Act was originally a Commonwealth ordinance—the *Civil Liability (Animals) Ordinance 1984* No 36 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act by the Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

Legislation before becoming Territory enactment

Civil Liability (Animals) Act 1984 No 36

notified 23 July 1984

commenced 23 July 1984

as amended by

Legislation after becoming Territory enactment

Acts Revision (Position of Crown) Act 1993 No 44 sch 2

notified 27 August 1993 (Gaz 1993 No S165)

commenced 27 August 1993 (s 2 and see Gaz 1993 No S165)

as repealed by

Civil Law (Wrongs) Act 2002 sch 3, pt 3.1

notified LR 10 October 2002

s 1, s 2 commenced 10 October 2002 (LA s 75 (1))

sch 3, pt 3.1 commenced 1 November 2002 (s 2 (2) and CN2002-13)

4 Amendment history

Ordinance to bind Crown

s 2 om 1993 No 44 sch 2

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	not amended	31 July 1991
2	Act 1993 No 44	31 January 1994
3	Act 1993 No 44	10 July 2002

Authorised when accessed at www.legislation.act.gov.au or in authorised printed form

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