



ANALYSIS

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1989, No. 97

An Act to reform the law relating to liability for damage caused by animals [25 October 1989]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Animals Law Reform Act 1989.

2. Interpretation—In this Act, unless the context otherwise requires, the term “animal”—

- (a) Means any living member of the animal kingdom; and
- (b) Includes mammals, birds, fish, and reptiles; but
- (c) Does not include human beings.

3. Act to bind Crown—This Act binds the Crown.

4. Liability for damage caused by dangerous animals—The rules of the common law that impose strict liability in tort for damage caused by an animal on the ground—

- (a) That the animal is regarded as *ferae naturae* (that is, is of a species that is naturally dangerous); or
- (b) That its dangerous propensities are known or presumed to be known—

shall not apply in New Zealand.

Cf. Animals Act 1971 (U.K.), ss. 2–6

5. Rule in *Searle v. Wallbank* abolished—(1) So much of the rules of the common law relating to liability in tort for negligence as excludes or restricts the duty that a person might owe to others to take reasonable care to see that damage is not caused by an animal straying onto a highway shall not apply in New Zealand.

(2) In determining, for the purposes of any proceedings, whether a person is liable by reason of negligence for damage caused by an animal straying onto a particular highway, consideration shall be given, amongst any other matters that are required or entitled to be considered, to—

- (a) The common practice, in the locality in which the relevant part of the highway is located, in relation to fencing, and the taking of other measures to prevent animals from straying onto highways in that locality; and
- (b) Any measures taken to warn users of that highway of the likely presence of animals on the highway.

Cf. Highways (Liability for Straying Animals) Act 1983 (W.A.), s. 3

6. Liability under Public Works Act 1981 or Dog Control and Hydatids Act 1982 not affected—Nothing in this Act affects—

- (a) Section 148 (3) of the Public Works Act 1981;
- (b) Section 61 of the Dog Control and Hydatids Act 1982.

7. Savings—Nothing in this Act applies—

- (a) To proceedings commenced before the commencement of this Act; or
- (b) To any cause of action that arose before the commencement of this Act; or
- (c) To any act or omission that occurred before the commencement of this Act.