



Animals (Scotland) Act 1987

1987 CHAPTER 9

1 New provisions as to strict liability for injury or damage caused by animals. S

- (1) Subject to subsection (4) and (5) below and section 2 of this Act, a person shall be liable for any injury or damage caused by an animal if—
- (a) at the time of the injury or damage complained of, he was a keeper of the animal;
 - (b) the animal belongs to a species whose members generally are by virtue of their physical attributes or habits likely (unless controlled or restrained) to injure severely or kill persons or animals, or damage property to a material extent; and
 - (c) the injury or damage complained of is directly referable to such physical attributes or habits.
- (2) In this section “species” includes—
- (a) a form or variety of the species or a sub-division of the species, or the form or variety, identifiable by age, sex or such other criteria as are relevant to the behaviour of animals; and
 - (b) a kind which is the product of hybridisation.
- (3) For the purposes of subsection (1)(b) above—
- (a) dogs, and dangerous wild animals within the meaning of section 7(4) of the ^{M1}Dangerous Wild Animals Act 1976, shall be deemed to be likely (unless controlled or restrained) to injure severely or kill persons or animals by biting or otherwise savaging, attacking or harrying; and
 - (b) any of the following animals in the course of foraging, namely—
cattle, horses, asses, mules, hinnies, sheep, pigs, goats and deer,
shall be deemed to be likely (unless controlled or restrained) to damage to a material extent land or the produce of land, whether harvested or not.
- (4) Subsection (1) above shall not apply to any injury caused by an animal where the injury consists of disease transmitted by means which are unlikely to cause severe injury other than disease.

Changes to legislation: There are currently no known outstanding effects for the Animals (Scotland) Act 1987, Section 1. (See end of Document for details)

- (5) Subsection (1) above shall not apply to injury or damage caused by the mere fact that an animal is present on a road or in any other place.
- (6) For the purposes of the ^{M2}Law Reform (Contributory Negligence) Act 1945, any injury or damage for which a person is liable under this section shall be treated as due to his fault as defined in that Act.
- (7) Subsections (1) and (2) of section 3 of the ^{M3}Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 (contribution among joint wrongdoers) shall, subject to any necessary modifications, apply in relation to an action of damages in respect of injury or damage which is brought in pursuance of this section as they apply in relation to an action of damages in respect of loss or damage arising from any wrongful acts or omissions; but nothing in this subsection shall affect any contractual, or (except as aforesaid) any other, right of relief or indemnity.
- (8) The foregoing provisions of this section and section 2 of this Act replace—
- (a) any rule of law which imposes liability, without proof of a negligent act or omission, on the owner or possessor of an animal for injury or damage caused by that animal on the ground that the animal *is ferae naturae* or is otherwise known to be dangerous or harmful;
 - (b) the Winter Herding Act 1686;
 - (c) section 1(1) and (2) of the ^{M4}Dogs Act 1906 (injury to cattle or poultry).

Marginal Citations

- M1** 1976 c. 38.
M2 1945 c. 28.
M3 1940 c. 42.
M4 1906 c. 32.

Changes to legislation:

There are currently no known outstanding effects for the *Animals (Scotland) Act 1987*, Section 1.