



# Animals Act 1971

## 1971 CHAPTER 22

### *Strict liability for damage done by animals*

#### **1 New provisions as to strict liability for damage done by animals.**

- (1) The provisions of sections 2 to 5 of this Act replace—
  - (a) the rules of the common law imposing a strict liability in tort for damage done by an animal on the ground that the animal is regarded as *ferae naturae* or that its vicious or mischievous propensities are known or presumed to be known;
  - (b) subsections (1) and (2) of section 1 of the <sup>M1</sup>Dogs Act 1906 as amended by the <sup>M2</sup>Dogs (Amendment) Act 1928 (injury to cattle or poultry); and
  - (c) the rules of the common law imposing a liability for cattle trespass.
- (2) Expressions used in those sections shall be interpreted in accordance with the provisions of section 6 (as well as those of section 11) of this Act.

#### **Marginal Citations**

**M1** 1906 c. 32.

**M2** 1928 c. 21.

#### **2 Liability for damage done by dangerous animals.**

- (1) Where any damage is caused by an animal which belongs to a dangerous species, any person who is a keeper of the animal is liable for the damage, except as otherwise provided by this Act.
- (2) Where damage is caused by an animal which does not belong to a dangerous species, a keeper of the animal is liable for the damage, except as otherwise provided by this Act, if—
  - (a) the damage is of a kind which the animal, unless restrained, was likely to cause or which, if caused by the animal, was likely to be severe; and

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- (b) the likelihood of the damage or of its being severe was due to characteristics of the animal which are not normally found in animals of the same species or are not normally so found except at particular times or in particular circumstances; and
- (c) those characteristics were known to that keeper or were at any time known to a person who at that time had charge of the animal as that keeper's servant or, where that keeper is the head of a household, were known to another keeper of the animal who is a member of that household and under the age of sixteen.

### **3 Liability for injury done by dogs to livestock.**

Where a dog causes damage by killing or injuring livestock, any person who is a keeper of the dog is liable for the damage, except as otherwise provided by this Act.

### **4 Liability for damage and expenses due to trespassing livestock.**

- (1) Where livestock belonging to any person strays on to land in the ownership or occupation of another and—
  - (a) damage is done by the livestock to the land or to any property on it which is in the ownership or possession of the other person; or
  - (b) any expenses are reasonably incurred by that other person in keeping the livestock while it cannot be restored to the person to whom it belongs or while it is detained in pursuance of section 7 of this Act, or in ascertaining to whom it belongs;

the person to whom the livestock belongs is liable for the damage or expenses, except as otherwise provided by this Act.

- (2) For the purposes of this section any livestock belongs to the person in whose possession it is.

### **5 Exceptions from liability under sections 2 to 4.**

- (1) A person is not liable under sections 2 to 4 of this Act for any damage which is due wholly to the fault of the person suffering it.
- (2) A person is not liable under section 2 of this Act for any damage suffered by a person who has voluntarily accepted the risk thereof.
- (3) A person is not liable under section 2 of this Act for any damage caused by an animal kept on any premises or structure to a person trespassing there, if it is proved either—
  - (a) that the animal was not kept there for the protection of persons or property; or
  - (b) (if the animal was kept there for the protection of persons or property) that keeping it there for that purpose was not unreasonable.
- (4) A person is not liable under section 3 of this Act if the livestock was killed or injured on land on to which it had strayed and either the dog belonged to the occupier or its presence on the land was authorised by the occupier.
- (5) A person is not liable under section 4 of this Act where the livestock strayed from a highway and its presence there was a lawful use of the highway.
- (6) In determining whether any liability for damage under section 4 of this Act is excluded by subsection (1) of this section the damage shall not be treated as due to the fault

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of the person suffering it by reason only that he could have prevented it by fencing; but a person is not liable under that section where it is proved that the straying of the livestock on to the land would not have occurred but for a breach by any other person, being a person having an interest in the land, of a duty to fence.

## **6 Interpretation of certain expressions used in sections 2 to 5.**

- (1) The following provisions apply to the interpretation of sections 2 to 5 of this Act.
- (2) A dangerous species is a species—
  - (a) which is not commonly domesticated in the British Islands; and
  - (b) whose fully grown animals normally have such characteristics that they are likely, unless restrained, to cause severe damage or that any damage they may cause is likely to be severe.
- (3) Subject to subsection (4) of this section, a person is a keeper of an animal if—
  - (a) he owns the animal or has it in his possession; or
  - (b) he is the head of a household of which a member under the age of sixteen owns the animal or has it in his possession;and if at any time an animal ceases to be owned by or to be in the possession of a person, any person who immediately before that time was a keeper thereof by virtue of the preceding provisions of this subsection continues to be a keeper of the animal until another person becomes a keeper thereof by virtue of those provisions.
- (4) Where an animal is taken into and kept in possession for the purpose of preventing it from causing damage or of restoring it to its owner, a person is not a keeper of it by virtue only of that possession.
- (5) Where a person employed as a servant by a keeper of an animal incurs a risk incidental to his employment he shall not be treated as accepting it voluntarily.

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