

# ANIMALS ACT 1971

## **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 Dogs Act 1906 as amended by the 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.

## **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
  - (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 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.

**7. Detention and sale of trespassing livestock.**

- (1) The right to seize and detain any animal by way of distress damage feasant is hereby abolished.

(2) Where any livestock strays on to any land and is not then under the control of any person the occupier of the land may detain it, subject to subsection (3) of this section, unless ordered to return it by a court.

(3) Where any livestock is detained in pursuance of this section the right to detain it ceases-

- (a) at the end of a period of forty-eight hours, unless within that period notice of the detention has been given to the officer in charge of a police station and also, if the person detaining the livestock knows to whom it belongs, to that person; or
- (b) when such amount is tendered to the person detaining the livestock as is sufficient to satisfy any claim he may have under section 4 of this Act in respect of the livestock; or,
- (c) if he has no such claim, when the livestock is claimed by a person entitled to its possession.

(4) Where livestock has been detained in pursuance of this section for a period of not less than fourteen days the person detaining it may sell it at a market or by public auction, unless proceedings are then pending for the return of the livestock or for any claim under section 4 of this Act in respect of it.

(5) Where any livestock is sold in the exercise of the right conferred by this section and the proceeds of the sale, less the costs thereof and any costs incurred in connection with it, exceed the amount of any claim under section 4 of this Act which the vendor had in respect of the livestock, the excess shall be recoverable from him by the person who would be entitled to the possession of the livestock but for the sale.

(6) A person detaining any livestock in pursuance of this section is liable for any damage caused to it by a failure to treat it with reasonable care and supply it with adequate food and water while it is so detained.

(7) References in this section to a claim under section 4 of this Act in respect of any livestock do not include any claim under that section for damage done by or expenses incurred in respect of the livestock before the straying in connection with which it is detained under this section.

## **8. Duty to take care to prevent damage from animals straying on to the highway.**

(1) So much of the rules of the common law relating to liability for negligence as excludes or restricts the duty which a person might owe to others to take such care as is reasonable to see that damage is not caused by animals straying on to a highway is hereby abolished.

(2) Where damage is caused by animals straying from unfenced land to a highway a person who placed them on the land shall not be regarded as having committed a breach of the duty to take care by reason only of placing them there if-

- (a) the land is common land, or is land situated in an area where fencing is not customary, or is a town or village green; and
- (b) he had a right to place the animals on that land.

## **9. Killing of or injury to dogs worrying livestock.**

(1) In any civil proceedings against a person (in this section referred to as the defendant) for killing or causing injury to a dog it shall be a defence to prove-

- (a) that the defendant acted for the protection of any livestock and was a person entitled to act for the protection of that livestock; and
- (b) that within forty-eight hours of the killing or injury notice thereof was given by the defendant to the officer in charge of a police station.

(2) For the purposes of this section a person is entitled to act for the protection of any livestock if, and only if-

- (a) the livestock or the land on which it belongs to him or to any person under whose express or implied authority he is acting; and
- (b) the circumstances are not such that liability for killing or causing injury to the livestock would be excluded by section 5(4) of this Act.

(3) Subject to subsection (4) of this section, a person killing or causing injury to a dog shall be deemed for the purposes of this section to act for the protection of any livestock if, and only if, either-

- (a) the dog is worrying or is about to worry the livestock and there are no other reasonable means of ending or preventing the worrying; or
- (b) the dog has been worrying livestock, has not left the vicinity and is not under the control of any person and there are no practicable means of ascertaining to whom it belongs.

(4) For the purposes of this section the condition stated in either of the paragraphs of the preceding subsection shall be deemed to have been satisfied if the defendant believed that it was satisfied and had reasonable ground for that belief.

(5) For the purposes of this section-

- (a) an animal belongs to any person if he owns it or has it in his possession; and
- (b) land belongs to any person if he is the occupier thereof.

#### **10. Application of certain enactments to liability under sections 2 to 4.**

For the purposes of the Fatal Accidents Act 1976, the Law Reform (Contributory Negligence) Act 1945 and the Limitation Act 1980 any damage for which a person is liable under sections 2 to 4 of this Act shall be treated as due to his fault.

#### **11. General interpretation.**

In this Act-

“common land”, and “town or village green” have the same meanings as in the Commons Regulation Act 1965,

“damage” includes the death of, or injury to, any person (including any disease and any impairment of physical or mental condition);

“fault” has the same meaning as in the Law Reform (Contributory Negligence) Act 1945;

“fencing” includes the construction of any obstacle designed to prevent animals from straying;

“livestock” means cattle, horses, asses, mules, hinnies, sheep, pigs, goats and poultry, and also deer not in the wild state and, in section 3 and 9 also, while in captivity, pheasants, partridges and grouse;

“poultry” means the domestic varieties of the following, that is to say, fowls, turkeys, geese, ducks, guinea-fowls, pigeons, peacocks and quails; and

“species” includes sub-species and variety.

#### **12. Application to Crown.**

(1) This Act binds the Crown, but nothing in this section shall authorise proceedings to be brought against Her Majesty in her private capacity.

(2) Section 38(3) of the Crown Proceedings Act 1947 (interpretation of references to Her Majesty in her private capacity) shall apply as if this section were contained in that Act.