



New South Wales

Impounding Amendment Act 1996 No 7

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Impounding Amendment Act 1996 No 7

Act No 7, 1996

An Act to amend the *Impounding Act 1993* to make further provision with respect to the impounding of animals; and for other purposes. [Assented to 5 June 1996]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Impounding Amendment Act 1996*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Impounding Act 1993 No 31

The *Impounding Act 1993* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 3 Objects of this Act

Omit “they have been abandoned or left unattended or, in the case of animals, are trespassing” from section 3 (a).

Insert instead “, in the case of animals, they are unattended or trespassing or, in the case of articles, they have been abandoned or left unattended”.

[2] Section 9

Omit the section. Insert instead:

9 Animals unattended in public places can be impounded

- (1) An impounding officer may impound an animal that is in a public place in the area of operations of the officer if the officer believes on reasonable grounds that the animal is unattended.
- (2) An animal is not to be regarded as being unattended for the purposes of this section:
 - (a) while the animal is in a public place in response to an invitation contained in a notice published by the relevant public authority and in accordance with any conditions specified in that notice, or
 - (b) while the animal is in a public place with the consent of the relevant public authority, or
 - (c) while the animal is in a public place and its presence there is authorised by or under an Act, or
 - (d) in the case of an animal that is stock (as defined in the *Rural Lands Protection Act 1989*) that is unattended on a road or travelling stock reserve, in any circumstances that do not constitute an offence under section 98 of that Act, or
 - (e) in any circumstances prescribed by the regulations for the purposes of this section.

[3] Section 12 Occupier of private land may impound trespassing animals

Omit “the occupier finds”. Insert instead “is”.

[4] Section 26 Impounding fees and charges

Omit “the abandoning or trespassing of an impounded animal” from section 26 (2).

Insert instead “an impounded animal while it was unattended or trespassing”.

[5] Section 26 (7)

Insert after section 26 (6):

- (7) An impounding authority may waive payment of a fee or charge, or part of a fee or charge, in respect of the impounding of an animal in a public place that had strayed because a gate or fence had ceased to be animal proof due to fire, flood or other natural disaster.

[6] Section 27 General right to recover impounding fees and charges and damages

Omit “left unattended or” from section 27 (3) (a).

Insert instead “became unattended or was”.

[7] Section 27 (6) and (7)

Insert after section 27 (5):

- (6) An impounding authority must pay any amount recovered by it under this section for loss or damage attributable to the trespassing of an animal on private land to the person who suffered the loss or damage.

- (7) For the purposes of subsection (6), an impounding authority is entitled to treat the owner of the land concerned as the person who suffered the loss or damage unless satisfied that the loss or damage was suffered by some other person.

[8] Section 32 Offence of abandoning article, or leaving animal unattended, in a public place

Omit “animal or” from section 32 (1).

[9] Section 32 (2) and (3)

Omit section 32 (2) and (3). Insert instead:

- (2) A person who causes or permits an animal to be unattended in a public place is guilty of an offence unless the person establishes that the person took all reasonable precautions to prevent the animal from being unattended.

Maximum penalty: 5 penalty units.

- (3) A person is not to be regarded as having abandoned an article in a public place or as having caused or permitted an animal to be unattended in a public place:
- (a) if the article or animal is in the public place in response to an invitation contained in a notice published by the relevant public authority and in accordance with any conditions specified in that notice, or
 - (b) if the article or animal is in the public place with the consent of the relevant public authority, or
 - (c) if the presence of the article or animal in the public place is authorised by or under an Act, or
 - (d) in the case of an animal that is stock (as defined in the *Rural Lands Protection Act 1989*) if the animal is unattended on a road or travelling stock reserve, in any circumstances that do not constitute an offence under section 98 of that Act, or

- (e) in the case of an animal, in any circumstances prescribed by the regulations for the purposes of section 9.

[10] Section 41 Special power to destroy animals

Omit “at large” from section 41 (1). Insert instead “unattended”.

[11] Schedule 1 Savings and transitional provisions

Omit clause 1 (1). Insert instead:

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Impounding Act 1993,

Impounding Amendment Act 1996.

[12] Schedule 1, clause 1 (2)

Omit “this Act”. Insert instead “the Act concerned”.

[13] Schedule 1, clause 7

Insert after clause 6:

7 Application of Impounding Amendment Act 1996

A provision of this Act as in force before its amendment by the *Impounding Amendment Act 1996* continues to apply to the impounding of an article or animal that occurred before the commencement of that amendment.

[14] Dictionary of expressions used in this Act

Insert “that is not managed or controlled by a reserve trust under that Act” after “public purpose” in the definition of *private land*.

[15] Dictionary of expressions used in this Act

Insert after the definition of *record*:

unattended, in relation to an animal, includes abandoned or straying.

[Minister’s second reading speech made in—
Legislative Assembly on 24 April 1996
Legislative Council on 28 May 1996]