

[Act 1996 No 7]



New South Wales

# Impounding Amendment Bill 1996

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The object of this Bill is to amend the *Impounding Act 1993*:

- (a) to enable animals that are straying in public places to be impounded by impounding authorities, and
- (b) to specify certain circumstances in which animals are not to be so impounded, and
- (c) to ensure that money recovered by an impounding authority for loss or damage caused by an animal trespassing on private land is given to the person who suffered the loss or damage, and
- (d) to enable reserve trusts of reserves under the *Crown Lands Act 1989* to impound animals trespassing on those reserves.

The Bill also makes other consequential and minor amendments.

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## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides that the proposed Act will commence on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the Schedule of amendments to the *Impounding Act 1993*.

## Schedule 1 Amendments

### Impounding of animals that are unattended in public places

Currently, the Act enables an impounding officer to impound an animal that has been abandoned or left unattended in a public place. **Schedule 1 [2]** and **[15]** broaden the power to allow an impounding officer to impound an animal that is unattended in a public place. *Unattended* is defined as including abandoned or straying. Certain circumstances are specified in which an animal is not to be regarded as being unattended, including where the animal is unattended in a public place with the consent of the relevant public authority or where the animal is stock that is on a road or travelling stock reserve in circumstances that do not result in a contravention of the *Rural Lands Protection Act 1989*.

At present, the Act provides that an animal is not to be treated as having been abandoned or left unattended if the animal has strayed onto a public place because a fence has ceased to be animal proof due to fire, flood or other natural disaster and there has been no reasonable opportunity to repair the fence. **Schedule 1 [2]** removes that provision so that such an animal may be impounded. **Schedule 1 [5]** enables the impounding authority to waive payment of part or all of the impounding fees and charges in those circumstances.

**Schedule 1 [1], [4], [6]** and **[10]** make consequential amendments.

### Payment for loss or damage caused by trespassing animal

**Schedule 1 [7]** provides that an impounding authority must pay any amount that it recovers for loss or damage attributable to the trespassing of an animal on private land to the person who suffered the loss or damage. The impounding authority may treat the owner of the land as the person who suffered the loss or damage unless satisfied that some other person suffered the loss or damage.

### **Offence of causing or permitting an animal to be unattended in a public place**

**Schedule 1 [8]** removes the offence of abandoning an animal in a public place and **Schedule 1 [9]** replaces it with an offence of causing or permitting an animal to be unattended in a public place. *Unattended* is defined as including abandoned or straying. Certain exceptions are specified, including where the animal is unattended in a public place with the consent of the relevant public authority or where the animal is stock that is on a road or travelling stock reserve in circumstances that do not result in a contravention of the *Rural Lands Protection Act 1989*.

### **Reserves under the Crown Lands Act 1989 managed by reserve trusts to be treated as private land**

**Schedule 1 [14]** amends the definition of *private land* in the Act to include reserves under the *Crown Lands Act 1989* that are managed or controlled by a reserve trust established under that Act. This will enable a reserve trust to impound animals trespassing on the reserve.

### **Savings and transitional provisions and minor amendments**

**Schedule 1 [11]** and **[12]** enable regulations of a savings or transitional nature to be made consequent on the enactment of the amendments.

**Schedule 1 [13]** provides that the amendments are to apply only to the impounding of articles and animals occurring after the commencement of the amendments.

**Schedule 1 [3]** makes a minor amendment to ensure consistency of language in the Act.