

Act 1993 No. 31

## IMPOUNDING BILL 1993

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

This Bill is cognate with the Local Government Bill 1993.

The object of this Bill is to consolidate in one Act various existing laws relating to the impounding of abandoned, unattended and trespassing animals and articles (including motor vehicles).

The Bill deals with the following matters:

- empowering local councils and certain public authorities to impound animals and articles found abandoned, left unattended or trespassing on land under their control;
- empowering occupiers of private land to impound animals found trespassing on their land;
- requiring notice to be given to owners of impounded animals and articles and providing for their rights to recover impounded items;
- the sale and disposal of items that are not claimed and the disposal of the proceeds of sale;
- the recovery of the costs incurred in connection with impounding under the authority of the proposed Act;
- the establishment of public and private pounds;
- offences concerning abandoning animals and articles and allowing animals to trespass, and unlawful recovery of impounded items;
- rights of appeal;
- miscellaneous ancillary provisions;
- consequential amendments and repeals.

The animals to which the Bill applies are listed in the definition of “animal” in the dictionary at the end of the Bill. Bogs are included only when in a national park or similar area.

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**PART 1—PRELIMINARY**

The Part deals with matters such as the commencement of the Act and its objects and lists the terms for which definitions are provided in the dictionary.

**PART 2—IMPOUNDING OF ANIMALS AND ARTICLES****Division 1—General provisions concerning impounding**

The Division confers impounding powers on “impounding officers” (officers appointed by certain public authorities) and police officers, and provides that impounding officers can impound only within the area of operations of the public authority that appointed them.

**Division 2—Impounding officers can impound abandoned, unattended and trespassing animals**

Impounding officers are given power to impound animals that are abandoned or left unattended in a public place or which are trespassing (not in a public place). Impounded animals are required to be taken to a pound. An animal can be detained on agistment for up to 7 days before being impounded.

**Division 3—Impounding of animals by occupiers of private land**

Occupiers of private land are given power to impound animals trespassing on their land. If the owner’s identity is known, he or she must be notified and the animal may be kept on the land for up to 4 days but then must be taken to a pound. A charge is payable to the occupier for the release of an impounded animal. The animal must be taken to a pound if the owner’s identity is not known.

**Division 4—Impounding of articles**

Impounding officers are given power to impound articles abandoned or left unattended. Special requirements apply before a motor vehicle can be impounded (including a minimum 3 days’ notice to the owner in most cases). Impounded articles must be taken to a pound unless this is impractical or too costly.

An impounded motor vehicle may be destroyed or disposed of if notice has been given to the owner or the owner cannot be identified, and the vehicle is worth less than \$500.

The Police are to be informed when a motor vehicle is impounded or destroyed.

**PART 3—HOW IMPOUNDED ITEMS ARE TO BE DEALT WITH**

The impounding authority must inquire who the owner is of an impounded item and notify the owner that it has been impounded and how to claim it. An impounding authority has a duty to care for impounded animals but injured, diseased or distressed animals can be destroyed. The owner of an impounded item can claim it back. Impounding fees are payable by the owner. The item can be sold or disposed of if not

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claimed and the proceeds of sale (after deduction of authorised fees and expenses) are held for the owner. Authorised fees and expenses can be recovered from the owner even if the owner does not claim the item.

**PART 4—ESTABLISHING POUNDS**

Impounding authorities can establish public pounds (for general use) or private pounds (for use only by the authority). Records are required to be kept and these are open to public inspection.

**PART 5—OFFENCES**

The following offences are created:

- abandoning an animal or article in a public place or leaving an animal unattended in a public place (5 penalty units)
- causing or permitting an animal to trespass (5 penalty units)
- unlawfully recovering (or attempting to recover or inciting another to recover) an impounded item (50 penalty units)
- obstructing an impounding officer (20 penalty units)

Penalty notices are provided for.

**PART 6—APPEALS**

The owner of an impounded item is given a right of appeal against the impounding on the ground that it was unlawful and against impounding fees on the ground that they are improper, incorrect or excessive.

**PART 7—MISCELLANEOUS**

Miscellaneous matters dealt with include the following:

- a special power for council officers and police officers to destroy animals that are dying or are a danger to the public;
- certificates of authority for impounding officers;
- assistance from the police;
- recovery of debts arising under the Act;
- protection of impounding officers and authorities from liability;
- consequential repeals and amendments.

**Schedule 1** deals with matters of a savings or transitional nature in consequence of the repeal of the Impounding Act 1898, Part 18 of the Local Government Act 1919 and other laws relating to impounding.

The **Dictionary** contains definitions of expressions used in the proposed Act.

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