



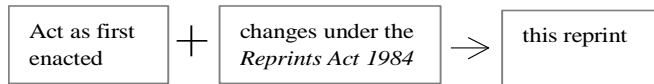
Western Australia

# **Highways (Liability for Straying Animals) Act 1983**

**Reprinted as at 11 October 2002**

## Guide for using this reprint

### *What the reprint includes*



### *Endnotes, Compilation table, and Table of provisions that have not come into operation*

1. Details about the original Act are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

### *Notes amongst text (italicised and within square brackets)*

Editorial notes show if something has been omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything omitted can be found in an earlier reprint (if there is one) or the Act as passed.

Reprinted under the  
*Reprints Act 1984* as  
at 11 October 2002

Western Australia

## Highways (Liability for Straying Animals) Act 1983

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Western Australia

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## **Highways (Liability for Straying Animals) Act 1983**

**An Act to clarify and amend the law relating to liability in tort for damage caused by animals straying on to highways.**

**1. Short title**

This Act may be cited as the *Highways (Liability for Straying Animals) Act 1983*<sup>1</sup>.

**2. Interpretation**

In this Act, unless the contrary intention appears —

“**damage**” includes —

- (a) the death of a person; and
- (b) injury to a person, including disease and impairment of mental or physical condition suffered by the person.

**3. Liability in tort for damage caused by animals straying on to highways**

- (1) Subject to subsection (2), so much of the rules of the common law relating to liability in tort 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 does not form part, and shall be deemed never to have formed part, of the law of Western Australia.

- (2) Subsection (1) has no operation in relation to —
  - (a) any action in respect of which a court has given judgment before the coming into operation of this Act; or
  - (b) any appeal relating to the matters which were in issue in the action referred to in paragraph (a).
- (3) A court shall determine the liability in tort of a person for damage caused by animals straying on to a highway solely according to the law of Western Australia relating to liability in tort for —
  - (a) negligence; or
  - (b) intentional acts or omissions.
- (4) In determining according to the law of Western Australia relating to liability in tort for negligence whether or not a person is liable for damage caused by animals straying on to a particular highway, a court may consider, among other matters —
  - (a) the general nature of the locality in which the relevant part of that highway is situated (in this subsection called **“the locality”**);
  - (b) the nature and amount of traffic using that highway;
  - (c) the extent to which users of that highway would expect to encounter animals on that highway and could be expected to guard against the risk associated with their presence;
  - (d) the common practice in the locality in relation to —
    - (i) fencing and the taking of other measures to prevent animals from straying on to highways in that locality; and

- (ii) the taking of measures to warn users of that highway of the likely presence of animals thereon;
  - and
  - (e) the cost of fencing, or of the taking of measures, referred to in paragraph (d) or of both, as the case requires.
- (5) There shall not be recoverable by way of damages in respect of any one cause of action in tort for negligence arising out of damage caused by animals straying on to a highway an amount exceeding \$500 000.

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## **Highways (Liability for Straying Animals) Act 1983**

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### **Notes**

- <sup>1</sup> This is a reprint as at 11 October 2002 of the *Highways (Liability for Straying Animals) Act 1983*. The following table contains information about that Act.

### **Compilation table**

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<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Highways (Liability for Straying Animals) Act 1983</i>	17 of 1983	17 Nov 1983	17 Nov 1983

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