

HIGHWAYS (LIABILITY FOR STRAYING ANIMALS) AMENDMENT BILL 2016

EXPLANATORY MEMORANDUM

Overview

The Highways (Liability for Straying Animals) Amendment Bill 2016 makes amendments to the *Highways (Liability for Straying Animals) Act 1983* to remove the current outdated limit on the damages recoverable for damage caused by animals straying on to roads and provide that the limit will be prescribed in regulations.

Clause 1 – Short title

This clause provides that the short title of the proposed Act is the *Highways (Liability for Straying Animals) Amendment Act 2016*.

Clause 2 – Commencement

This clause provides that sections 1 and 2 of the proposed Act will come into operation on Royal Assent. The substantive provisions of the proposed Act will come into operation on proclamation.

Clause 3 – Act amended

This clause provides that the proposed Act will amend the *Highways (Liability for Straying Animals) Act 1983*.

Clause 4 – Section 3 amended

This amendment will remove section 3(5) of the *Highways (Liability for Straying Animals) Act 1983* which sets out the current limit of \$500,000 on relevant damages recoverable.

Clause 5 – Sections 4 and 5 inserted

Clause 5 proposes to insert 2 new sections into the *Highways (Liability for Straying Animals) Act 1983*.

Proposed new section 4(1) will provide that the limit on the damages awarded in respect of any one cause of action in tort for negligence arising out of damage caused by animals straying on to a highway is an amount prescribed by regulations for the financial year in which the damages are assessed.

Proposed new section 4(2) will provide that regulations made under the Act may specify a particular amount as the maximum damages amount, or provide for a method of calculating the maximum damages amount for the financial year.

It is intended that the regulations will provide for a method of indexation so that the limit is updated annually in line with inflation.

Proposed new sections 4(3) and (4) will provide that the Minister will publish a notice in the Government Gazette setting out the quantum of the relevant maximum amount of damages recoverable for a financial year on or before each 1 July. This notice is for public information only and the failure to publish it would not affect the applicable limit for the financial year.

Proposed new section 4(5) will provide that in the financial year where the proposed Act comes into operation, a reference in subclauses (1) to (4) to a financial year is to be read as a reference to the period that begins on commencement day and ends on the next 30 June, and a reference in subclause (3) to 1 July is to be read as a reference to commencement day.

This provision is aimed at ensuring the new prescribed limit will apply as from commencement day to the end of the financial year only, and will not apply retrospectively.

Clause 5 – Regulations

This clause will introduce a regulation making power.