

**HIGHWAYS (LIABILITY FOR STRAYING ANIMALS) AMENDMENT BILL 2016**

*Introduction and First Reading*

Bill introduced, on motion by **Hon Michael Mischin (Attorney General)**, and read a first time.

*Second Reading*

**HON MICHAEL MISCHIN (North Metropolitan — Attorney General)** [5.20 pm]: I move —

That the bill be now read a second time.

This bill is aimed at updating the current cap on damages recoverable for loss caused by animals which stray on to the roads under the Highways (Liability for Straying Animals) Act 1983. The act was passed to clarify the law governing civil liability for straying animals by specifically providing that liability for loss caused by animals that stray on to roads is governed by the law of negligence. The act contains an upper limit beyond which damages in respect of any one accident cannot be awarded against the keeper of the straying animal that caused the loss. The intent of the limit was to ensure that keepers of animals such as farmers and graziers would be able to obtain insurance cover at a reasonable price to indemnify them against loss caused by their animals straying on to roads. This limit was set at \$500 000, in accordance with the recommendation of the Law Reform Commission of Western Australia in its report titled “Project No 11—Part II: Liability for Stock Straying on to the Highway”.

This limit on recoverable damages has not been updated since the act came into effect in 1983. In light of inflation and increases in other awards of damages over the last three decades, the cap is outdated and may unfairly restrict the damages recoverable by a road user injured in an accident caused by straying stock, thus denying them due compensation for the harm done and loss caused to them. To address this, the bill will remove the current cap from the act and provide that it be prescribed in regulations. This will allow greater flexibility in adjusting the cap from time to time to ensure that it is current and in line with trends in court awards of damages by way of compensation, and will provide for the indexation of the cap so that it can be varied annually in line with the wage price index.

The current act does not contain any regulation-making power. As such, the proposed changes to the limit on damages recoverable will be implemented in a two-step process. As the first step, the present bill will amend the current act to remove the existing outdated limit and introduce the power to enable the Governor to make regulations necessary or convenient for giving effect to the act. It is intended that the bill will commence on proclamation. Following the bill’s assent, but prior to its commencement, regulations will be drafted specifying the new limit and providing that the limit will be indexed by reference to the wage price index as published by the Australian Statistician. The proclamation of the bill and the gazettal of the proposed regulations will be timed to ensure a seamless transition to the new updated limit on recoverable damages.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party, nor does this bill by reason of its subject matter introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and table the explanatory memorandum.

[See paper 4021.]

Debate adjourned, pursuant to standing orders.