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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.

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.

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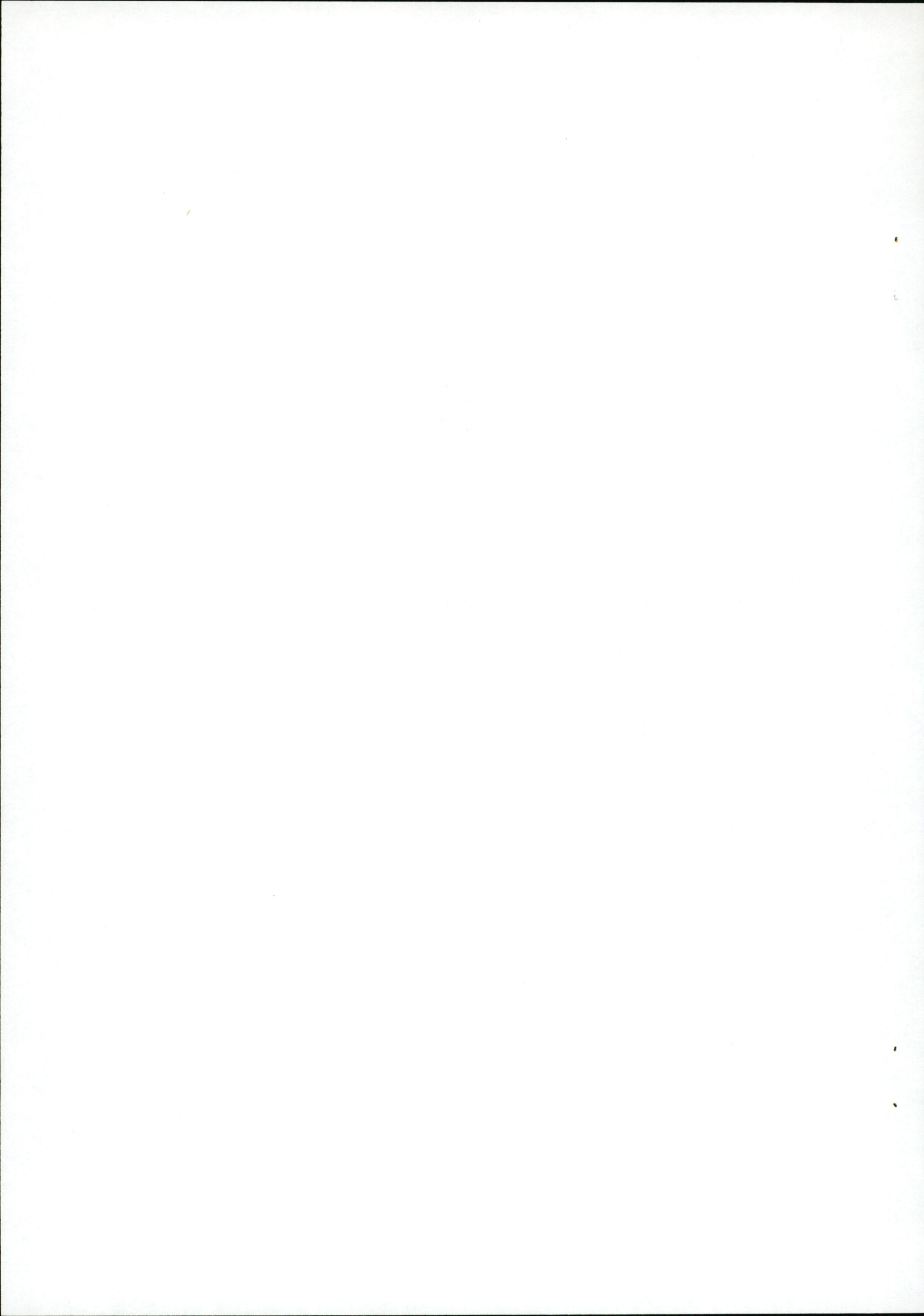


New South Wales

Impounding Amendment Bill 1996

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New South Wales

Impounding Amendment Bill 1996

No. , 1996

A Bill for

An Act to amend the *Impounding Act 1993* to make further provision with respect to the impounding of animals; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Impounding Amendment Act 1996*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation. 5

3 Amendment of Impounding Act 1993 No 31

The *Impounding Act 1993* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 3 Objects of this Act

Omit "they have been abandoned or left unattended or, in the case of animals, are trespassing" from section 3 (a). 5

Insert instead " , in the case of animals, they are unattended or trespassing or, in the case of articles, they have been abandoned or left unattended".

[2] Section 9

Omit the section. Insert instead: 10

9 Animals unattended in public places can be impounded

(1) An impounding officer may impound an animal that is in a public place in the area of operations of the officer if the officer believes on reasonable grounds that the animal is unattended. 15

(2) An animal is not to be regarded as being unattended for the purposes of this section:

(a) while the animal is in a public place in response to an invitation contained in a notice published by the relevant public authority and in accordance with any conditions specified in that notice, or 20

(b) while the animal is in a public place with the consent of the relevant public authority, or

(c) while the animal is in a public place and its presence there is authorised by or under an Act, or 25

(d) in the case of an animal that is stock (as defined in the *Rural Lands Protection Act 1989*) that is unattended on a road or travelling stock reserve, in any circumstances that do not constitute an offence under section 98 of that Act, or 30

(e) in any circumstances prescribed by the regulations for the purposes of this section.

Impounding Amendment Bill 1996

Schedule 1 Amendments

- [3] Section 12 Occupier of private land may impound trespassing animals**
- Omit "the occupier finds". Insert instead "is".
- [4] Section 26 Impounding fees and charges**
- Omit "the abandoning or trespassing of an impounded animal" from section 26 (2). 5
Insert instead "an impounded animal while it was unattended or trespassing".
- [5] Section 26 (7)**
- Insert after section 26 (6): 10
- (7) An impounding authority may waive payment of a fee or charge, or part of a fee or charge, in respect of the impounding of an animal in a public place that had strayed because a gate or fence had ceased to be animal proof due to fire, flood or other natural disaster. 15
- [6] Section 27 General right to recover impounding fees and charges and damages**
- Omit "left unattended or" from section 27 (3) (a).
Insert instead "became unattended or was".
- [7] Section 27 (6) and (7)** 20
- Insert after section 27 (5):
- (6) An impounding authority must pay any amount recovered by it under this section for loss or damage attributable to the trespassing of an animal on private land to the person who suffered the loss or damage. 25

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- (7) For the purposes of subsection (6), an impounding authority is entitled to treat the owner of the land concerned as the person who suffered the loss or damage unless satisfied that the loss or damage was suffered by some other person. 5
- [8] Section 32 Offence of abandoning article, or leaving animal unattended, in a public place**
Omit "animal or" from section 32 (1).
- [9] Section 32 (2) and (3)**
Omit section 32 (2) and (3). Insert instead: 10
- (2) A person who causes or permits an animal to be unattended in a public place is guilty of an offence unless the person establishes that the person took all reasonable precautions to prevent the animal from being unattended. 15
- Maximum penalty: 5 penalty units.
- (3) A person is not to be regarded as having abandoned an article in a public place or as having caused or permitted an animal to be unattended in a public place:
- (a) if the article or animal is in the public place in response to an invitation contained in a notice published by the relevant public authority and in accordance with any conditions specified in that notice, or 20
- (b) if the article or animal is in the public place with the consent of the relevant public authority, or 25
- (c) if the presence of the article or animal in the public place is authorised by or under an Act, or
- (d) in the case of an animal that is stock (as defined in the *Rural Lands Protection Act 1989*) if the animal is unattended on a road or travelling stock reserve, in any circumstances that do not constitute an offence under section 98 of that Act, or 30

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Schedule 1 Amendments

- (e) in the case of an animal, in any circumstances prescribed by the regulations for the purposes of section 9.

[10] Section 41 Special power to destroy animals

Omit "at large" from section 41 (1). Insert instead "unattended". 5

[11] Schedule 1 Savings and transitional provisions

Omit clause 1 (1). Insert instead:

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts: 10

Impounding Act 1993,

Impounding Amendment Act 1996.

[12] Schedule 1, clause 1 (2)

Omit "this Act". Insert instead "the Act concerned".

[13] Schedule 1, clause 7 15

Insert after clause 6:

7 Application of Impounding Amendment Act 1996

A provision of this Act as in force before its amendment by the *Impounding Amendment Act 1996* continues to apply to the impounding of an article or animal that occurred before the commencement of that amendment. 20

[14] Dictionary of expressions used in this Act

Insert “that is not managed or controlled by a reserve trust under that Act” after “public purpose” in the definition of *private land*.

[15] Dictionary of expressions used in this Act

Insert after the definition of *record*:

5

unattended, in relation to an animal, includes abandoned or straying.



New South Wales

Impounding Amendment Act 1996 No 7

Act No 7, 1996

An Act to amend the *Impounding Act 1993* to make further provision with respect to the impounding of animals; and for other purposes. [Assented to 5 June 1996]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Impounding Amendment Act 1996*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Impounding Act 1993 No 31

The *Impounding Act 1993* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 3 Objects of this Act

Omit "they have been abandoned or left unattended or, in the case of animals, are trespassing" from section 3 (a).

Insert instead ", in the case of animals, they are unattended or trespassing or, in the case of articles, they have been abandoned or left unattended".

[2] Section 9

Omit the section. Insert instead:

9 Animals unattended in public places can be impounded

- (1) An impounding officer may impound an animal that is in a public place in the area of operations of the officer if the officer believes on reasonable grounds that the animal is unattended.
- (2) An animal is not to be regarded as being unattended for the purposes of this section:
 - (a) while the animal is in a public place in response to an invitation contained in a notice published by the relevant public authority and in accordance with any conditions specified in that notice, or
 - (b) while the animal is in a public place with the consent of the relevant public authority, or
 - (c) while the animal is in a public place and its presence there is authorised by or under an Act, or
 - (d) in the case of an animal that is stock (as defined in the *Rural Lands Protection Act 1989*) that is unattended on a road or travelling stock reserve, in any circumstances that do not constitute an offence under section 98 of that Act, or
 - (e) in any circumstances prescribed by the regulations for the purposes of this section.

[3] Section 12 Occupier of private land may impound trespassing animals

Omit "the occupier finds". Insert instead "is".

[4] Section 26 Impounding fees and charges

Omit "the abandoning or trespassing of an impounded animal" from section 26 (2).

Insert instead "an impounded animal while it was unattended or trespassing".

[5] Section 26 (7)

Insert after section 26 (6):

- (7) An impounding authority may waive payment of a fee or charge, or part of a fee or charge, in respect of the impounding of an animal in a public place that had strayed because a gate or fence had ceased to be animal proof due to fire, flood or other natural disaster.

[6] Section 27 General right to recover impounding fees and charges and damages

Omit "left unattended or" from section 27 (3) (a).

Insert instead "became unattended or was".

[7] Section 27 (6) and (7)

Insert after section 27 (5):

- (6) An impounding authority must pay any amount recovered by it under this section for loss or damage attributable to the trespassing of an animal on private land to the person who suffered the loss or damage.

- (7) For the purposes of subsection (6), an impounding authority is entitled to treat the owner of the land concerned as the person who suffered the loss or damage unless satisfied that the loss or damage was suffered by some other person.

[8] Section 32 Offence of abandoning article, or leaving animal unattended, in a public place

Omit "animal or" from section 32 (1).

[9] Section 32 (2) and (3)

Omit section 32 (2) and (3). Insert instead:

- (2) A person who causes or permits an animal to be unattended in a public place is guilty of an offence unless the person establishes that the person took all reasonable precautions to prevent the animal from being unattended.

Maximum penalty: 5 penalty units.

- (3) A person is not to be regarded as having abandoned an article in a public place or as having caused or permitted an animal to be unattended in a public place:
- (a) if the article or animal is in the public place in response to an invitation contained in a notice published by the relevant public authority and in accordance with any conditions specified in that notice, or
 - (b) if the article or animal is in the public place with the consent of the relevant public authority, or
 - (c) if the presence of the article or animal in the public place is authorised by or under an Act, or
 - (d) in the case of an animal that is stock (as defined in the *Rural Lands Protection Act 1989*) if the animal is unattended on a road or travelling stock reserve, in any circumstances that do not constitute an offence under section 98 of that Act, or

- (e) in the case of an animal, in any circumstances prescribed by the regulations for the purposes of section 9.

[10] Section 41 Special power to destroy animals

Omit "at large" from section 41 (1). Insert instead "unattended".

[11] Schedule 1 Savings and transitional provisions

Omit clause 1 (1). Insert instead:

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Impounding Act 1993,

Impounding Amendment Act 1996.

[12] Schedule 1, clause 1 (2)

Omit "this Act". Insert instead "the Act concerned".

[13] Schedule 1, clause 7

Insert after clause 6:

7 Application of Impounding Amendment Act 1996

A provision of this Act as in force before its amendment by the *Impounding Amendment Act 1996* continues to apply to the impounding of an article or animal that occurred before the commencement of that amendment.

[14] Dictionary of expressions used in this Act

Insert “that is not managed or controlled by a reserve trust under that Act” after “public purpose” in the definition of *private land*.

[15] Dictionary of expressions used in this Act

Insert after the definition of *record*:

unattended, in relation to an animal, includes abandoned or straying.

[Minister's second reading speech made in—
Legislative Assembly on 24 April 1996
Legislative Council on 28 May 1996]

