



ANNO TRICESIMO SECUNDO

**ELIZABETHAE II REGINAE**

**A.D. 1983**

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**No. 116 of 1983**

**An Act to amend the Wrongs Act, 1936**

*[Assented to 22 December 1983]*

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Wrongs Act Amendment Act (No. 2), 1983". Short title.

(2) The Wrongs Act, 1936, is in this Act referred to as "the principal Act".

2. Section 3 of the principal Act is repealed and the following section is substituted: Repeal of s. 3 and substitution of new section.

3. This Act binds the Crown. Act to bind the Crown.

3. The following section is inserted after section 3a but before Part I of the principal Act: Insertion of new s. 3b.

3b. The remainder of this Act is arranged as follows: Arrangement of Act.

PART I—DEFAMATION  
 PART IA—LIABILITY FOR ANIMALS  
 PART II—WRONGFUL ACTS OR NEGLIGENCE CAUSING DEATH  
 PART III—GENERAL PROVISIONS.

4. Section 6 of the principal Act is amended by striking out the passage "in any newspaper" and substituting the passage "published by newspaper, radio or television". Amendment of s. 6—Privilege of newspaper, radio or television reports of legal proceedings.

5. Section 7 of the principal Act is amended—

(a) by striking out from subsection (1) the passage "in any newspaper" and substituting the passage "by newspaper, radio or television"; Amendment of s. 7—Privilege of newspaper, radio or television reports of proceedings of public meetings and of certain bodies and persons.

(b) by inserting after paragraph (a) of subsection (1) the following paragraph:

(ab) either House of Parliament; or;

(c) by striking out from paragraph (b) of subsection (1) the word "newspaper";

(d) by inserting in subsection (1) after the passage "and the publication" the passage "by newspaper, radio or television";

(e) by striking out from paragraph (b) of the proviso to subsection (1) the passage "insert in the newspaper in which the report or other publication complained of appeared" and substituting the passage "publish by the same newspaper or radio or television station, as the case may be,";

and

(f) by striking out from paragraph (b) of the proviso to subsection (1) the passage "insert the same" and substituting the passage "do so".

Amendment of  
s. 8—  
Penalties on  
unfair and  
inaccurate reports.

6. Section 8 of the principal Act is amended—

(a) by striking out the passage "in any newspaper" and substituting the passage "by newspaper, radio or television";

(b) by striking out the passage "of such newspaper";

(c) by striking out the passage "twenty dollars" and substituting the passage "two thousand dollars";

and

(d) by striking out from paragraph (a) of the proviso the passage "published in the newspaper" and substituting the passage "published by the newspaper or radio or television station, as the case may be,".

Amendment of  
s. 10—  
Defence in action  
against a  
newspaper or  
radio or television  
station for libel.

7. Section 10 of the principal Act is amended—

(a) by inserting in subsection (1) before the passage ", the defendant" the passage "or in a radio or television broadcast";

(b) by inserting in subsection (1) before the passage "without actual malice" the passage "or included in the broadcast";

and

(c) by inserting in subsection (1) before the passage ", a full apology" the passage "or broadcast on the same radio or television station".

Amendment of  
s. 11—  
Evidence in  
mitigation of  
damages.

8. Section 11 of the principal Act is amended by striking out the passage "contained in any newspaper".

Amendment of  
s. 14—  
Evidence as to  
publication,  
matters charged,  
etc.

9. Section 14 of the principal Act is amended by striking out the passage "the proprietor, publisher, or editor, or any person responsible for the publication of a newspaper for a libel therein" and substituting the passage

“a person responsible for the publication of a libel by newspaper, radio or television”.

10. The following Part is inserted after section 17 of the principal Act: Insertion of new Part IA.

#### PART IA

#### LIABILITY FOR ANIMALS

17a. (1) Subject to this section, liability for injury, damage or loss caused by an animal shall be determined in accordance with the principles of the law of negligence. Liability for animals.

(2) In determining the standard of care to be exercised in relation to the keeping, management and control of an animal, a court shall take into account—

(a) the nature and disposition of the animal (which shall be determined according to the facts of the particular case and not according to any legal categorization);

and

(b) any other relevant matters.

(3) It is not necessary for a person seeking damages for injury, damage or loss caused by an animal to establish prior knowledge on the part of any other person of a vicious, dangerous or mischievous propensity of the animal.

(4) In any proceedings relating to injury, damage or loss caused by an animal, it shall not be a circumstance of excuse, mitigation or justification that the injury, damage or loss was caused by reason of the animal straying onto a public street or road.

(5) In an action arising from injury, damage or loss caused by an animal to an employee, it shall not be presumed that the employee voluntarily assumed risks attendant upon his employment that may have arisen from working in proximity to animals.

(6) A court in determining whether a reasonable standard of care was exercised in a particular case shall take into account measures taken—

(a) for the custody and control of the animal;

and

(b) to warn against any vicious, dangerous or mischievous propensity that it might exhibit.

(7) Notwithstanding subsection (6), the fact that in a particular case no measures were taken for the custody and control of an animal, or to warn against any vicious, dangerous or mischievous propensity that it might exhibit, does not necessarily show that a reasonable standard of care was not exercised.

(8) Where a person incites, or knowingly permits, an animal to cause injury, damage or loss to another, he shall be liable in trespass for that injury, damage or loss.

(9) Subject to subsection (10), this section operates to the exclusion of any other principles upon which liability for injury, damage or loss

caused by an animal would, but for this subsection, be determined in tort.

(10) This section—

(a) does not affect an action in nuisance where an animal is the cause of, or involved in, the nuisance;

(b) does not derogate from any other statutory right or remedy; and

(c) does not affect any cause of action that arose before the commencement of the Wrongs Act Amendment Act, 1983.

Repeal of s. 31.

**11.** Section 31 of the principal Act and the heading immediately preceding that section are repealed.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor