



# **Guide, Hearing and Assistance Dogs Act 2009**

**Reprinted as in force on 1 September 2009**

**Reprint No. 1A**

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This Act is reprinted as at 1 September 2009.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprint.**

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Queensland

# Guide, Hearing and Assistance Dogs Act 2009

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# Guide, Hearing and Assistance Dogs Act 2009

[reprinted as in force on 1 September 2009]

**An Act to make provision to allow persons with a disability to be accompanied by guide, hearing and assistance dogs at certain places and for related purposes, and to repeal the Legacy Trust Fund Act 2001**

## **Part 1 Preliminary**

### **Division 1 Introduction**

#### **1 Short title**

This Act may be cited as the *Guide, Hearing and Assistance Dogs Act 2009*.

#### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

#### **3 Objects of Act**

- (1) The objects of this Act are—
  - (a) to assist people with a disability who rely on guide, hearing or assistance dogs to have independent access to the community; and
  - (b) to ensure the quality and accountability of guide, hearing and assistance dog training services.
- (2) The objects are mainly achieved by—

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- (a) protecting the right of people with a disability who rely on guide, hearing or assistance dogs to be accompanied by the person's guide, hearing or assistance dog in particular public places and public passenger vehicles; and
- (b) protecting the right of trainers of guide, hearing and assistance dogs to be accompanied by the dogs in particular public places and public passenger vehicles; and
- (c) providing a simple and consistent means of identifying properly trained guide, hearing and assistance dogs; and
- (d) providing for the approval of guide, hearing and assistance dog training services.

## Division 2 Interpretation

### 4 Dictionary

The dictionary in schedule 4 defines particular words used in this Act.

### 5 What is a *disability*

- (1) A *disability* is a person's condition that—
  - (a) is attributable to—
    - (i) an intellectual, psychiatric, cognitive, neurological, sensory or physical impairment; or  
*Examples—*  
a vision or hearing impairment
    - (ii) the presence in the person's body of organisms causing illness or disease; and
  - (b) results in—

- 
- (i) a reduction of the person's capacity for communication, social interaction, learning, mobility or self care or management; and
    - (ii) the person needing support.
  - (2) The disability may be, but need not be, of a chronic episodic nature.

## **Part 2                      Guide, hearing and assistance    dogs in public places and    public passenger vehicles**

### **Division 1                      Preliminary**

#### **6                      Definitions for pt 2**

In this part—

***public passenger vehicle*** means a vehicle used to transport members of the public.

*Examples—*

bus, ferry, plane, taxi or train

***public place*** means a place that the public is entitled to use, is open to the public or is used by the public, whether or not on payment of money.

*Examples—*

beach, restaurant or shopping centre

#### **7                      Public places and public passenger vehicles to which    this part applies**

- (1) This part applies to any public place or public passenger vehicle, other than the following—

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- (a) a part of a health service facility mentioned in schedule 1;
  - (b) an ambulance;
  - (c) a part of a public place or public passenger vehicle where food is ordinarily prepared;
  - (d) a public place or public passenger vehicle prescribed under a regulation for this section.
- (2) The Minister may recommend the making of a regulation under subsection (1)(d) only if the Minister is satisfied that the presence of a dog in the public place or public passenger vehicle would be—
- (a) a risk to the health or welfare of people ordinarily at the place or on the vehicle; or
  - (b) for a public place—a serious risk to a plant or animal native to the place.

## **Division 2                      Right to be accompanied by a guide, hearing or assistance dog**

### **8                      People with a disability may be accompanied by their guide, hearing and assistance dogs**

- (1) Despite any other Act, a person with a disability who relies on a guide, hearing or assistance dog to reduce the person's need for support may be accompanied by the guide, hearing or assistance dog in a public place or public passenger vehicle.
- (2) Also, a person with a disability who relies on a guide, hearing or assistance dog to reduce the person's need for support does not commit an offence merely by taking the guide, hearing or assistance dog into a public place or public passenger vehicle.

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**9 Trainers and puppy carers may be accompanied by guide, hearing, assistance and trainee support dogs**

- (1) Despite any other Act, an approved trainer, employee trainer or puppy carer may be accompanied by a guide, hearing, assistance or trainee support dog in a public place or public passenger vehicle.
- (2) Also, an approved trainer, employee trainer, or puppy carer does not commit an offence merely by taking a guide, hearing, assistance or trainee support dog into a public place or public passenger vehicle.

**10 Lawful presence at a place or on a vehicle**

To remove any doubt, it is declared that sections 8 and 9 do not—

- (a) affect the lawfulness of a particular person mentioned in section 8 or 9 being at a place or on a vehicle; or
- (b) prevent a person from lawfully refusing entry, to a place or vehicle, to another person accompanied by a guide, hearing, assistance or trainee support dog for any reason other than the other person being accompanied by a guide, hearing, assistance or trainee support dog; or
- (c) prevent a person from lawfully requiring another person accompanied by a guide, hearing, assistance or trainee support dog to leave a place or vehicle for any reason other than the other person being accompanied by a guide, hearing, assistance or trainee support dog.

*Example—*

Section 8 does not affect the ability of a person exercising control of a shopping centre to require a person accompanied by a guide dog to leave the premises because the shopping centre is closing.

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### **Division 3                      Obligations of persons exercising control of public places and public passenger vehicles**

#### **11            Who is a *person exercising control* of a public place or public passenger vehicle**

A *person exercising control* of a public place or public passenger vehicle is a person exercising control, or purporting to exercise control, over—

- (a) access to, or permission to remain in, the place or vehicle; or
- (b) the delivery of a service in the place or vehicle.

#### **12            Identification procedure for handlers and trainers**

(1) The *identification procedure* is a procedure that a person complies with to identify themselves as a person who is accompanied by a properly trained guide, hearing or assistance dog or a trainee support dog.

(2) A person complies with the identification procedure by—

- (a) having—
  - (i) his or her identity card displayed so it is clearly visible; or
  - (ii) the following available for inspection by a person exercising control of a public place or public passenger vehicle if asked by the person—
    - (A) his or her identity card;
    - (B) a valid application notice for the person; and
- (b) ensuring the dog is wearing—
  - (i) for a guide dog—a harness or identifying coat; or
  - (ii) for an assistance dog—an identifying coat; or

- (iii) for a hearing or trainee support dog—a harness or identifying coat.
- (3) A person is taken not to comply with the identification procedure if the person’s identity card is suspended, cancelled or expired.
- (4) In this section—
- identifying coat*** means a dog coat that—
- (a) identifies a dog as a guide, hearing, assistance or trainee support dog; and
  - (b) complies with the requirements prescribed under a regulation.

***identity card*** means—

- (a) for a person with a disability—a handler’s identity card; or
- (b) for an approved trainer, employee trainer or a puppy carer—a trainer’s identity card.

***valid application notice***, for a person, means a written notice issued to the person by the chief executive under section 42 that has not expired.

*Note*—

See section 42(4) for the expiry of a written notice issued by the chief executive.

## **13 Obligations of persons exercising control of public places and public passenger vehicles**

- (1) A person exercising control of a public place or public passenger vehicle must not—
- (a) refuse entry to, or permission to be in, the place or vehicle to an accompanied handler who is complying with the identification procedure; or
  - (b) refuse service in the place or vehicle to an accompanied handler who is complying with the identification procedure; or

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- (c) impose a term that would result in a person with a disability being separated, while in the place or vehicle, from the guide, hearing or assistance dog that the person relies on to reduce the person's need for support.

Maximum penalty—100 penalty units.

- (2) It is a defence to a charge of an offence against subsection (1) for the person to prove that he or she contravened this section for a reason that was reasonable in the circumstances and did not relate to—
  - (a) for an offence against subsection (1)(a) or (b)—the accompanied handler being accompanied by a guide, hearing, assistance or trainee support dog; or
  - (b) for an offence against subsection (1)(c)—the person with a disability being accompanied by a guide, hearing or assistance dog.

- (3) In this section—

***accompanied handler*** means—

- (a) a person with a disability who is accompanied by the guide, hearing or assistance dog the person relies on to reduce the person's need for support; or
- (b) an approved trainer, employee trainer or puppy carer who is accompanied by a guide, hearing, assistance or trainee support dog.

***term*** includes a condition, requirement or practice, whether or not written.

*Note*—

A person with a disability may also have a right of action under the *Disability Discrimination Act 1992* (Cwlth).



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## Part 3                      Trainers of guide, hearing and assistance dogs

### Division 1                      Approval of trainers of guide, hearing and assistance dogs

#### 14      Who is suitable for approval

- (1) A person is *suitable for approval* under this part if the person is able to—
  - (a) train reliable guide, hearing or assistance dogs that are—
    - (i) able to perform identifiable physical tasks and behaviours for the benefit of a person with a disability; and
    - (ii) safe and effective in public places and public passenger vehicles; and
  - (b) select dogs that are able to meet the individual needs of a person with a disability; and
  - (c) provide ongoing and regular support to the handlers of the guide, hearing or assistance dogs trained by the person.
- (2) However, a person is not suitable for approval if any of the following persons have a criminal history that would make him or her unsuitable to work with animals or people with a disability—
  - (a) for approval as an approved trainer—the person;
  - (b) for approval as an approved training institution—the employee trainers of the person.

#### 15      Application for approval

- (1) An individual (the *applicant*) may apply to the chief executive for approval in 1 or more categories of approved trainer.

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- (2) A corporation (also the *applicant*) may apply to the chief executive for approval in 1 or more categories of approved training institution.
- (3) An application under subsection (1) or (2) must be in the approved form and accompanied by each of the following—
  - (a) the documents or information on which the applicant relies to establish the applicant is suitable for approval;
  - (b) for approval as an approved trainer—
    - (i) a consent to a criminal history check, in the approved form, from the applicant; and
    - (ii) a disclosure of the criminal history, if any, of the applicant;
  - (c) for approval as an approved training institution—
    - (i) a consent to a criminal history check, in the approved form, from each employee trainer of the institution; and
    - (ii) a disclosure of the criminal history, if any, of each employee trainer of the institution;
  - (d) the fee, if any, prescribed under a regulation.
- (4) If requested by the chief executive, the applicant must provide other documents and information reasonably required by the chief executive to decide the application.
- (5) For subsections (1) and (2), the categories of approved trainer or approved training institution are the following—
  - (a) guide dog trainer;
  - (b) hearing dog trainer;
  - (c) assistance dog trainer.

## **16 Submissions from advisory committee**

- (1) After receiving an application under section 15, the chief executive may ask an advisory committee for a submission about the applicant.

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- (2) Within 28 days after receiving a request under subsection (1), the advisory committee must—
    - (a) give the chief executive a written submission about the applicant; and
    - (b) give the applicant—
      - (i) a copy of the submission; and
      - (ii) a notice stating that the applicant may make written representations to the chief executive about the submission within 14 days after the applicant is given the notice and copy of the submission.
  - (3) Within 14 days after receiving the notice and copy of the submission, the applicant may make written representations to the chief executive about the submission.

## **17 Decision on application for approval**

- (1) The chief executive must consider the application and any documents or information provided by the applicant under section 15.
- (2) In considering if the applicant is suitable for approval, the chief executive must have regard to the following—
  - (a) for an individual—
    - (i) the applicant's qualifications, knowledge or experience in dog obedience training;
    - (ii) the applicant's criminal history;
  - (b) for a corporation—
    - (i) the qualifications, knowledge or experience in dog obedience training of its employees;
    - (ii) the criminal history of each employee trainer;
  - (c) the training methods to be used by the applicant;
  - (d) if a submission is requested under section 16(1)—the submission and any representation about the submission received under section 16(3);

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- (e) another matter prescribed under a regulation.
- (3) Also, the chief executive may have regard to the following—
  - (a) the applicant's membership of an organisation that promotes standards of dog training;
  - (b) qualifications, knowledge or experience of the applicant, or the applicant's employees, that demonstrates an understanding of the needs of people with a disability.
- (4) If the chief executive is satisfied that the applicant is suitable for approval, the chief executive must decide to grant the approval.
- (5) Also, the chief executive may impose conditions on the approval that the chief executive considers reasonable and relevant.
- (6) If the chief executive is not satisfied that the applicant is suitable for approval, the chief executive must decide to refuse to grant the approval.

## **18 Notification of decision**

- (1) If the chief executive decides to grant an approval to the applicant, the chief executive must—
  - (a) immediately give the applicant a notice of the decision; and
  - (b) notify the name and category of the approved trainer or approved training institution in the gazette.
- (2) If the chief executive decides to impose conditions on the approval, the chief executive must immediately give the applicant an information notice for the decision.
- (3) If the chief executive decides to refuse to grant an approval to the applicant, the chief executive must immediately give the applicant an information notice for the decision.

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**19 Approval remains in force unless immediately suspended, cancelled or surrendered**

An approval as an approved trainer or approved training institution remains in force unless immediately suspended, cancelled or surrendered under this part.

**Division 2 Review of approval**

**20 Definitions for div 2**

In this division—

*institution* means approved training institution.

*trainer* means approved trainer.

**21 Review of approval**

- (1) The chief executive must review the approval of a trainer or institution 3 years after the approval is granted and afterwards at intervals of not more than 3 years.
- (2) Before conducting the review, the chief executive must send the trainer or institution a notice stating the chief executive is conducting a review of the trainer's or institution's approval.
- (3) If requested, the trainer or institution must give the chief executive, within 28 days, documents and information, stated in the notice, the chief executive reasonably requires to conduct the review.

**22 Submissions from advisory committee**

- (1) In conducting a review under this division, the chief executive may ask an advisory committee for a submission about the trainer or institution.
- (2) Within 28 days after receiving a request under subsection (1), the advisory committee must—

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- (a) give the chief executive a written submission about the trainer or institution; and
  - (b) give the trainer or institution—
    - (i) a copy of the submission; and
    - (ii) a notice stating that the trainer or institution may make written representations to the chief executive about the submission within 14 days after the trainer or institution is given the notice and copy of the submission.
- (3) Within 14 days after receiving the notice and copy of the submission, the trainer or institution may make written representations to the chief executive about the submission.

## **23 Decision on review**

- (1) In conducting a review under this division, the chief executive must have regard to the following—
- (a) for a trainer—
    - (i) the trainer’s qualifications, knowledge or experience in dog obedience training;
    - (ii) the trainer’s criminal history;
  - (b) for an institution—
    - (i) the qualifications, knowledge or experience in dog obedience training of its employees;
    - (ii) the criminal history of each employee trainer;
  - (c) the training methods used or to be used by the trainer or institution;
  - (d) if a submission is requested under section 22(1)—the submission and any representation about the submission received under section 22(3);
  - (e) another matter prescribed under a regulation.
- (2) Also, the chief executive may have regard to the following—

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- (a) the trainer's or institution's membership of an organisation that promotes standards of dog training;
  - (b) qualifications, knowledge or experience of the trainer, or, for an institution, its employees, that demonstrates an understanding of the needs of people with a disability;
  - (c) the trainer's or institution's history of compliance with the prescribed requirements;
  - (d) any complaints made to the chief executive about the trainer or institution.
- (3) If, after conducting the review, the chief executive is satisfied the trainer or institution continues to be suitable for approval, the chief executive must give the trainer or institution a notice stating that the review has been completed.

## **Division 3                      Immediate suspension, cancellation and voluntary surrender of approval**

### **Subdivision 1              Preliminary**

#### **24              Definitions for div 3**

In this division—

*show cause notice* see section 27(2).

*show cause period* see section 27(2)(d).

#### **25              Grounds for immediate suspension or cancellation of approval**

- (1) Each of the following is a ground for immediately suspending or cancelling the approval of an approved trainer or approved training institution—
- (a) the trainer or institution is no longer suitable for approval;

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*Examples of when a trainer or institution is no longer suitable for approval—*

- The chief executive has decided an approved trainer is no longer suitable for approval after conducting a review of the trainer's approval under division 2.
  - A change in the criminal history of an employee trainer of an approved training institution results in the employee trainer being unsuitable to work with animals.
- (b) the trainer or institution has contravened the prescribed requirements;
- (c) the trainer or institution has contravened a provision of this Act;
- (d) the institution employs an unsuitable person as an employee trainer;
- (e) the trainer or institution has intentionally or recklessly certified a dog as a guide, hearing or assistance dog and the dog has not, or should not have, passed a public access test;
- (f) the approval was granted because of a materially false or misleading representation or declaration.
- (2) In this section—

*unsuitable person* means a person the chief executive has decided is unsuitable to work with animals or people with a disability.

## **Subdivision 2 Immediate suspension**

### **26 Immediate suspension of approval**

- (1) The chief executive may, by information notice given to an approved trainer or approved training institution, immediately suspend the trainer's or institution's approval if the chief executive reasonably believes—
- (a) a ground exists for immediately suspending the approval; and



- (b) it is necessary to immediately suspend the approval to prevent or control harm happening to a person or animal.
- (2) The information notice must also state the suspension period.
- (3) The suspension—
  - (a) may be for the period the chief executive decides but not more than 3 months; and
  - (b) has effect immediately when the notice is given.

### **Subdivision 3 Cancellation**

#### **27 Show cause process**

- (1) This section applies if—
  - (a) the chief executive believes a ground exists to cancel the approval of an approved trainer or approved training institution; and
  - (b) the chief executive proposes to cancel the approval.
- (2) The chief executive must give the approved trainer or approved training institution a notice (a *show cause notice*) stating the following—
  - (a) the chief executive proposes to cancel the trainer's or institution's approval;
  - (b) the grounds for the proposed cancellation;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) that the trainer or institution may give the chief executive, within a stated period (the *show cause period*), written representations explaining why the trainer's or institution's approval should not be cancelled.

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- (3) The show cause period must not be less than 21 days after the show cause notice is given to the approved trainer or approved training institution.
- (4) The chief executive must consider all written representations made in the show cause period by the approved trainer or approved training institution.

## **28 Ending show cause process without further action**

If, after the show cause period, the chief executive no longer believes the ground exists to cancel the approval, the chief executive—

- (a) must not take further action about the show cause notice; and
- (b) must, as soon as practicable, give notice to the approved trainer or approved training institution that no further action is to be taken about the show cause notice.

## **29 Cancellation of approval**

- (1) If, after the show cause period, the chief executive still believes cancellation is warranted, the chief executive may cancel the approval.
- (2) The chief executive must immediately give an information notice about the decision to the approved trainer or approved training institution.
- (3) The decision takes effect on the later of the following days—
  - (a) the day the information notice is given to the approved trainer or approved training institution;
  - (b) the day stated in the information notice for that purpose.

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## **Subdivision 4 Voluntary surrender of approval**

### **30 Voluntary surrender of approval**

- (1) An approved trainer or approved training institution may surrender the trainer's or institution's approval by written notice given to the chief executive.
- (2) The surrender of the approval takes effect on the later of the following days—
  - (a) the day the notice is given to the chief executive;
  - (b) the day stated in the notice for that purpose.

## **Division 4 Prescribed requirements**

### **31 Prescribed requirements**

- (1) A regulation may prescribe requirements relating to the provision of a training service by an approved trainer or approved training institution.
- (2) Without limiting subsection (1), a regulation may prescribe a requirement about—
  - (a) how an approved trainer or approved training institution delivers services to clients, including—
    - (i) assessments and training of clients in relation to the control and care of guide, hearing or assistance dogs; and
    - (ii) information to be given to clients; or
  - (b) the types of records to be kept by an approved trainer or approved training institution, including records about—
    - (i) employment of employee trainers and puppy carers; and
    - (ii) trainer's identity cards; and
    - (iii) training of dogs; and

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- (iv) veterinary history of dogs; or
- (c) preparing, maintaining, publishing or implementing a policy; or
- (d) the insurance cover an approved trainer or approved training institution must ensure is in force; or
- (e) maintaining accreditation on the basis of industry standards or other relevant standards.

*Note—*

Contravention of prescribed requirements by an approved trainer or approved training institution is a ground for immediately suspending or cancelling the trainer's or institution's approval under section 25(1)(b).

## **Division 5                      Other matters**

### **32            Approved trainers and approved training institutions must give notice of change**

- (1) An approved trainer or approved training institution must give written notice to the chief executive of any of the following matters within 14 days after becoming aware of the matter, unless the trainer or institution has a reasonable excuse—
  - (a) a change in the trainer's or institution's address;
  - (b) a matter prescribed under a regulation.

*Note—*

Contravention of this section by an approved trainer or approved training institution is a ground for immediately suspending or cancelling the trainer's or institution's approval under section 25(1)(c).

- (2) An approved training institution must give the chief executive a consent to a criminal history check, in the approved form, from a new employee trainer within 14 days of employing the trainer.

Maximum penalty—20 penalty units.

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### 33 Claims by persons about approval

A person who is not an approved trainer or approved training institution must not hold out, or attempt to hold out, to be approved by the chief executive for training guide, hearing or assistance dogs.

Maximum penalty—100 penalty units.

## Part 4 Certification of guide, hearing and assistance dogs

### Division 1 Interpretation

#### 34 Definitions for pt 4

In this part—

*approved assistance dog trainer* means an approved trainer or approved training institution approved in the category of assistance dog trainer.

*approved guide dog trainer* means an approved trainer or approved training institution approved in the category of guide dog trainer.

*approved hearing dog trainer* means an approved trainer or approved training institution approved in the category of hearing dog trainer.

#### 35 Public access test

- (1) A *public access test* is a test approved by the chief executive to assess if a guide, hearing or assistance dog is—
- (a) safe and effective in a public place or public passenger vehicle; and
  - (b) able to be controlled by the handler of the dog.

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- (2) The chief executive must—
- (a) keep a copy of each public access test available for inspection, free of charge, by members of the public at the department's head office and regional offices; and
  - (b) publish the public access test on the department's website on the internet.

*Editor's note—*

The department's website on the internet is <[www.disability.qld.gov.au](http://www.disability.qld.gov.au)>.

## **Division 2                      Certification of guide, hearing and assistance dogs**

### **36            Certification of guide dogs**

An approved guide dog trainer may only certify a guide dog for a person with a disability if the dog—

- (a) is able to be used as a guide by a person with disability attributable to a vision impairment; and
- (b) has passed a public access test conducted by the following within 7 days before being certified—
  - (i) for an approved trainer—the trainer;
  - (ii) for an approved training institution—an employee trainer of the institution; and
- (c) is not a restricted breed as defined under the *Local Government Act 1993*; and
- (d) is desexed and vaccinated; and
- (e) has not been declared a dangerous dog under a local law.

### **37            Certification of hearing dogs**

An approved hearing dog trainer may only certify a hearing dog for a person with a disability if the dog—

- (a) is able to be used as an aid by a person with disability attributable to a hearing impairment; and
- (b) has passed a public access test conducted by the following within 7 days before being certified—
  - (i) for an approved trainer—the trainer;
  - (ii) for an approved training institution—an employee trainer of the institution; and
- (c) is not a restricted breed as defined under the *Local Government Act 1993*; and
- (d) is desexed and vaccinated; and
- (e) has not been declared a dangerous dog under a local law.

### **38 Certification of assistance dogs**

An approved assistance dog trainer may only certify an assistance dog for a person with a disability if the dog—

- (a) is able to perform identifiable physical tasks and behaviours to assist the person in a way that reduces the person's need for support; and
- (b) has passed a public access test conducted by the following within 7 days before being certified—
  - (i) for an approved trainer—the trainer;
  - (ii) for an approved training institution—an employee trainer of the institution; and
- (c) is not a restricted breed as defined under the *Local Government Act 1993*; and
- (d) is desexed and vaccinated; and
- (e) has not been declared a dangerous dog under a local law.

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### **39 Approved or employee trainer must not certify own dog**

- (1) An approved trainer must not certify a guide, hearing or assistance dog if the trainer is also the person with a disability who relies on the dog.
- (2) *An approved training institution must not certify a guide, hearing or assistance dog if the person with a disability who relies on the dog is—*
  - (a) *an employee trainer of the institution; or*
  - (b) *a director or shareholder of the institution.*

*Note—*

*Contravention of this section by an approved trainer or approved training institution is a ground for immediately suspending or cancelling the trainer's or institution's approval under section 25(1)(c).*

*Editor's note—*

Section 39(2) had not commenced on or before the reprint date.

## **Part 5 Identity cards for handlers, trainers and puppy carers**

### **Division 1 Identity cards for handlers**

#### **Subdivision 1 Issue of handlers' identity cards**

### **40 Eligibility for handler's identity card**

A person with a disability who relies on a guide, hearing or assistance dog is eligible for a handler's identity card if—

- (a) the person reasonably requires the guide, hearing or assistance dog to reduce the person's need for support; and
- (b) the person is able to physically control the dog; and



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- (c) the person applies for a handler's identity card within 28 days after an approved trainer or approved training institution certifies the dog for the person.

#### **41 Application for handler's identity card**

- (1) A person with a disability who relies on a guide, hearing or assistance dog (the *applicant*) may apply to the chief executive for a handler's identity card.
- (2) The application must be in the approved form and accompanied by—
  - (a) the documents or information prescribed under a regulation, including evidence of the person's disability; and
  - (b) a photo of the applicant and dog that complies with the requirements prescribed under a regulation; and
  - (c) the fee, if any, prescribed under a regulation.
- (3) If requested by the chief executive, the applicant must provide other documents and information reasonably required by the chief executive to decide the application.

#### **42 Notice of application**

- (1) If the chief executive receives an application under section 41 (the *current application*), the chief executive must issue the applicant with a written notice complying with the requirements prescribed under a regulation for this section.
- (2) However, if the chief executive requests other documents and information from an applicant under section 41(3), the chief executive does not have to issue a notice under subsection (1) until the applicant complies with the request.
- (3) Also, the chief executive does not have to issue a notice under subsection (1) to an applicant if, during a period of 6 months before the current application—
  - (a) the chief executive decided to refuse to issue a handler's identity card to the applicant; or

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- (b) the applicant withdrew an application made under section 41.
- (4) A notice issued under this section expires 28 days after it is issued by the chief executive.

### **43 Decision on application**

- (1) The chief executive must consider the application and, within 14 days, decide to either issue or refuse to issue a handler's identity card to the applicant.
- (2) The chief executive may only issue a handler's identity card to the applicant if the chief executive is satisfied the applicant is eligible for the card under section 40.
- (3) If the chief executive decides to issue a handler's identity card to the applicant, the chief executive must issue the card as soon as practicable.
- (4) If the chief executive decides to refuse to issue a handler's identity card to the applicant, the chief executive must immediately give the applicant an information notice for the decision.

### **44 Term of handler's identity card**

- (1) A handler's identity card becomes effective on the day the card is issued and expires, unless sooner suspended, cancelled or surrendered, on the day of expiry stated on the card.
- (2) The day of expiry for a handler's identity card must not be more than—
  - (a) for a card relating to use of a guide or hearing dog—5 years from the day the card is issued; or
  - (b) for a card relating to use of an assistance dog—2 years from the day the card is issued.

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**45 Notice of expiry of handler's identity card**

At least 60 days before a handler's identity card is to expire, the chief executive must give the handler a notice stating—

- (a) the day the card will expire; and
- (b) how to apply for a handler's identity card.

**Subdivision 2 Immediate suspension, cancellation and voluntary surrender of handlers' identity cards**

**46 Grounds for immediate suspension or cancellation of handler's identity card**

- (1) Each of the following is a ground for immediately suspending or cancelling a handler's identity card—
  - (a) the handler's dog is a risk to the health or welfare of the handler or someone else;
  - (b) the handler no longer relies on the handler's dog;
  - (c) the handler's dog was certified because of a materially false or misleading representation or declaration;
  - (d) the identity card was issued because of a materially false or misleading representation or declaration.
- (2) Also, it is a ground for cancelling a handler's identity card if the handler's dog should be retired because of age, illness or other inability to be used as a guide, hearing or assistance dog.
- (3) In this section—

*handler's dog* means the guide, hearing or assistance dog that the handler relies on.

**47 Immediate suspension of handler's identity card**

- (1) The chief executive may, by information notice given to a handler, immediately suspend the handler's identity card if the chief executive reasonably believes—

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- (a) a ground exists for immediately suspending the card; and
  - (b) it is necessary to immediately suspend the card to prevent or control harm happening to a person or animal.
- (2) The information notice must also state the suspension period.
- (3) The suspension—
- (a) may be for the period the chief executive decides but not more than 3 months; and
  - (b) has effect immediately when the notice is given.

#### **48 Cancellation of handler's identity card**

- (1) If the chief executive believes a ground exists to cancel a handler's identity card, the chief executive may cancel the card.
- (2) Before cancelling the handler's identity card the chief executive must give the handler a notice stating the following—
- (a) that the chief executive proposes to cancel the card;
  - (b) the grounds for the proposed cancellation;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) that the handler may give the chief executive, within a stated period (the *show cause period*), written representations from the handler, or from an approved trainer or approved training institution for the handler, about why the card should not be cancelled.
- (3) The show cause period must not be less than 28 days after the show cause notice is given to the handler.
- (4) The chief executive must consider all written representations from the handler, or from an approved trainer or approved training institution for the handler, given to the chief executive within the show cause period.

- (5) If the chief executive cancels a handler's identity card, the chief executive must immediately give the handler an information notice for the decision.
- (6) The decision takes effect on the later of the following days—
  - (a) the day the information notice is given to the handler;
  - (b) the day stated in the information notice for that purpose.

#### **49 Voluntary surrender of handler's identity card**

A handler may surrender the handler's identity card by giving the card and written notice of the surrender to the chief executive.

### **Subdivision 3 Other matters**

#### **50 Replacement of handler's identity card**

- (1) A handler may apply to the chief executive for the replacement of the handler's identity card if the card is damaged, lost or stolen.
- (2) The application must—
  - (a) be made in the approved form; and
  - (b) be accompanied by the fee, if any, prescribed under a regulation.
- (3) If, after receiving an application complying with subsection (2), the chief executive is satisfied the handler's identity card has been damaged, lost or stolen, the chief executive must replace it.
- (4) This section does not apply if the handler's identity card is suspended or cancelled, or has expired.

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## **51 Return of handler's identity card**

- (1) A handler must return the handler's identity card to the chief executive within 1 month after the following unless the handler has a reasonable excuse—
  - (a) the cancellation of the card;
  - (b) the death or retirement of the guide, hearing or assistance dog shown on the card.

Maximum penalty—2 penalty units.

- (2) In this section—

*retirement*, of a guide, hearing or assistance dog, means the ending of use of the dog as a guide, hearing or assistance dog because the dog is no longer—

- (a) relied on for support by the dog's handler; or
- (b) able to assist the dog's handler in a way that reduces the handler's need for support.

## **Division 2 Identity cards for approved trainers**

### **52 Issue of identity card for approved trainer**

The chief executive must issue an identity card to each approved trainer.

### **53 Term of identity card for approved trainer**

An identity card for an approved trainer becomes effective on the day the card is issued and expires on the day of expiry stated on the card.

### **54 Replacement of identity card for approved trainer**

- (1) An approved trainer may apply to the chief executive for the replacement of the trainer's identity card if the card is damaged, lost or stolen.

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- (2) The application must—
    - (a) be made in the approved form; and
    - (b) be accompanied by the fee, if any, prescribed under a regulation.
  - (3) If, after receiving an application complying with subsection (2), the chief executive is satisfied the trainer's identity card has been damaged, lost or stolen, the chief executive must replace it.
  - (4) This section does not apply if the trainer's identity card is suspended or cancelled, or has expired.

#### **55 Return of identity card for approved trainer**

An approved trainer whose approval is cancelled or surrendered (the *event*), must return the trainer's identity card to the chief executive within 7 days after the event unless the trainer has a reasonable excuse.

Maximum penalty—20 penalty units.

### **Division 3 Identity cards for employee trainers and puppy carers**

#### **56 Issue of identity card for employee trainer or puppy carer**

- (1) An approved training institution must issue identity cards to its employee trainers and puppy carers.
- (2) An approved training institution must not—
  - (a) issue an identity card to anyone other than an employee trainer or puppy carer of the institution; or
  - (b) issue an identity card that does not comply with the requirements prescribed in a regulation.
- (3) In this section—

*identity card* means a card which identifies the card holder as an employee trainer or puppy carer.

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*Note—*

Contravention of this section by an approved training institution is a ground for immediately suspending or cancelling the institution's approval under section 25(1)(c).

## **57 Return of identity card for employee trainer or puppy carer**

(1) An approved training institution must collect an employee trainer's or puppy carer's identity card as soon as practicable after the trainer or carer stops being a trainer or carer.

(2) In this section—

*identity card* means the card which identifies the card holder as an employee trainer or puppy carer.

*Note—*

Contravention of this section by an approved training institution is a ground for immediately suspending or cancelling the institution's approval under section 25(1)(c).

# **Part 6 Screening of approved and employee trainers**

## **Division 1 Preliminary**

### **58 Main purpose of pt 6**

The main purpose of this part is to enable the chief executive to obtain the criminal history of, and related information about, approved and employee trainers.



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## **Division 2                      Disclosure of criminal history**

### **59            Employee trainers must disclose criminal history**

Immediately after starting employment as an employee trainer, a person must disclose to the chief executive—

- (a) whether or not the trainer has a criminal history; and
- (b) if the trainer has a criminal history, the trainer's complete criminal history.

Maximum penalty—20 penalty units.

### **60            Approved and employee trainers must disclose changes in criminal history**

- (1) If there is a change in the criminal history of an approved or employee trainer, the trainer must immediately disclose to the chief executive the details of the change.

Maximum penalty—20 penalty units.

- (2) For an approved or employee trainer who does not have a criminal history, there is taken to be a change in the trainer's criminal history if the trainer acquires a criminal history.

### **61            Requirements for disclosure**

- (1) To comply with section 59 or 60 an approved or employee trainer must give the chief executive a disclosure in the approved form.
- (2) The information disclosed by an approved or employee trainer about a conviction of an offence in the trainer's criminal history must include—
  - (a) the existence of the conviction; and
  - (b) when the offence was committed; and
  - (c) the details of the offence; and
  - (d) whether or not a conviction was recorded and the sentence imposed on the trainer.

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### **Division 3                      Chief executive may obtain report about criminal history**

#### **62            Chief executive may obtain report from commissioner of the police service**

- (1) This section applies to the following persons—
  - (a) an approved trainer;
  - (b) an employee trainer;
  - (c) a person to whom a consent to a criminal history check relates.
- (2) The chief executive may ask the commissioner of the police service to give the chief executive the following information about the person—
  - (a) a written report about the person's criminal history;
  - (b) a brief description of the circumstances of a conviction mentioned in the person's criminal history.
- (3) The commissioner of the police service must comply with the request.
- (4) However, the duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.

### **Division 4                      Use of information**

#### **63            Person to be advised of information obtained**

- (1) This section applies to information about a person obtained by the chief executive from the commissioner of the police service.
- (2) Before using the information to make an assessment under this Act, the chief executive must—

- (a) disclose the information to the person; and
- (b) allow the person a reasonable opportunity to make written representations to the chief executive about the information.

## **64 Use of information obtained under this part**

- (1) This section applies to the chief executive in considering information about a person received under this part.
- (2) The information must not be used for any purpose other than assessing the person's suitability to work with animals or people with a disability.
- (3) When making the assessment, the chief executive must have regard to the following matters relating to information about the commission of an offence by the person—
  - (a) when the offence was committed;
  - (b) the nature of the offence and its relevance to the person's ability to work with animals or people with a disability;
  - (c) a written representation, if any, made to the chief executive under section 63(2)(b);
  - (d) anything else the chief executive considers relevant to the assessment of the person.

## **Division 5 Controls on information**

### **65 Guidelines for dealing with information**

- (1) The chief executive must make guidelines, consistent with this Act, for dealing with information obtained by the chief executive under this part.
- (2) The purpose of the guidelines is to ensure—
  - (a) natural justice is afforded to the persons about whom the information is obtained; and

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- (b) only relevant information is used in assessing the suitability of a person to work with animals or people with a disability; and
  - (c) decisions based on the information, are made consistently.
- (3) The chief executive must give a copy of the guidelines, on request, to a person who has, or will have, a duty to disclose under section 59 or 60.

## **66 Confidentiality of information about criminal history**

- (1) This section applies to a person who—
- (a) is, or has been, a public service employee; and
  - (b) in that capacity acquired information, or gained access to a document, under this part about another person's criminal history.
- (2) The person must not disclose the information, or give access to the document, to anyone else.

Maximum penalty—100 penalty units or 2 years imprisonment.

- (3) Subsection (2) does not apply to the disclosure of information, or giving of access to a document, about another person's criminal history—
- (a) to the chief executive or a public service employee for the purpose of assessing the person's suitability to work with animals or people with a disability; or
  - (b) if the other person is an adult—with the other person's consent; or
  - (c) if the disclosure or giving of access is otherwise required under an Act.

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## Part 7                      Reviews and appeals

### Division 1                Interpretation

#### 67        Definitions for pt 7

In this part—

*interested person* see section 68(2).

*reviewable decision* see section 68(1).

*reviewed decision* see section 71(3).

*reviewed decision notice* see section 71(4).

### Division 2                Reviewable decisions

#### 68        Reviewable decisions

- (1) A *reviewable decision* is a decision of the chief executive to—
  - (a) impose conditions on an approval under section 17; or
  - (b) refuse to grant an approval under section 17; or
  - (c) immediately suspend an approval under section 26; or
  - (d) cancel an approval under section 29; or
  - (e) refuse to issue a handler's identity card under section 43; or
  - (f) immediately suspend a handler's identity card under section 47; or
  - (g) cancel a handler's identity card under section 48.
- (2) For each decision mentioned in subsection (1), the person who may seek to have the decision reviewed under this part is the person (the *interested person*) who the chief executive was required to give an information notice about the decision to.

## **Division 3                      Review of decision**

### **69            Application for review**

- (1) This section applies to the interested person for a reviewable decision.
- (2) Within 28 days after the interested person receives an information notice about the reviewable decision, the interested person may apply to the chief executive to review the decision.
- (3) Also, the interested person may apply to the chief executive to review the decision if the chief executive has not given the interested person an information notice about the decision.
- (4) The application must be in the approved form and supported by enough information to enable the chief executive to decide the application.
- (5) The chief executive may extend the time mentioned in subsection (2).

### **70            Stay of operation of original decision**

- (1) An application under section 69 for review of a decision does not stay the decision.
- (2) However, before the decision takes effect, the chief executive may give the interested person a notice staying the operation of the decision for a stated period.
- (3) The stay may be granted on conditions the chief executive considers appropriate.
- (4) Also, whether or not the applicant has asked the chief executive to stay the operation of the decision, the applicant may apply to the tribunal for a stay of the decision.
- (5) The tribunal may stay the decision to secure the effectiveness of the review and any later appeal to the tribunal.
- (6) The stay may be granted on conditions the tribunal considers appropriate and has effect for the period stated by the tribunal.

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- (7) The period of the stay must not extend past the time when the chief executive makes the reviewed decision and any later period the tribunal allows to enable the applicant to appeal against the reviewed decision.

## 71 Review decision

- (1) This section applies to an application under section 69 for review of a decision.
- (2) Unless the chief executive made the original decision personally, the chief executive must ensure the application is not dealt with by—
- (a) the person who made the original decision; or
  - (b) a person in a less senior office than the person who made the original decision.
- (3) Within 28 days after receiving the application, the chief executive must review the original decision and make a decision (the *reviewed decision*)—
- (a) confirming the original decision; or
  - (b) amending the original decision; or
  - (c) substituting another decision for the original decision.
- (4) Immediately after deciding the application, the chief executive must give the interested person a notice (a *reviewed decision notice*) stating—
- (a) the reviewed decision; and
  - (b) the reasons for the reviewed decision; and
  - (c) that, within 28 days after receiving the notice, the interested person may appeal against the reviewed decision to the tribunal; and
  - (d) how the interested person may appeal to the tribunal.
- (5) If the chief executive does not decide the application within 28 days after receiving it, the chief executive is taken to have made a reviewed decision confirming the original decision.

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## **Division 4                      Appeal against reviewed decision**

### **72            Appeal against reviewed decision**

- (1) Within 28 days after receiving a reviewed decision notice, the interested person for the decision may appeal against the decision to the tribunal.
- (2) Also, if the chief executive has made a reviewed decision but has not given the interested person a reviewed decision notice, the interested person for the decision may appeal against the decision to the tribunal.
- (3) If the interested person has received a reviewed decision notice, the application filed in the tribunal to start the appeal must be accompanied by a copy of the notice.

### **73            Appeal is by way of rehearing**

- (1) The appeal to the tribunal is by way of rehearing on the evidence that was before the chief executive.
- (2) However, the tribunal may give leave to the interested person to adduce fresh, additional or substituted evidence (the *new evidence*) if the tribunal is satisfied—
  - (a) the interested person did not know, or could not reasonably be expected to have known, of the existence of the new evidence on or before the day the reviewed decision was made; or
  - (b) in the special circumstances of the case, it would be unfair not to allow the interested person to adduce the new evidence.
- (3) If the tribunal gives leave under subsection (2), the tribunal may—
  - (a) adjourn the proceeding to allow the chief executive to reconsider the reviewed decision together with the new evidence; or



- (b) continue with the appeal by way of rehearing on the evidence that was before the chief executive and on the new evidence.
- (4) However, if the chief executive asks the tribunal for an adjournment to allow the chief executive to reconsider the reviewed decision together with the new evidence, the tribunal must adjourn the proceeding for a stated reasonable time.

## **Part 8                      Monitoring and enforcement**

### **Division 1                Preliminary**

#### **74            Purpose of pt 8**

The purpose of this part is to provide powers to authorised officers for the purpose of monitoring and enforcing compliance with this Act.

### **Division 2                Authorised officers**

#### **75            Powers generally**

- (1) An authorised officer has the powers given under this Act.
- (2) In exercising the powers under this Act an authorised officer is subject to the directions of the chief executive.

#### **76            Appointment and qualifications**

- (1) The chief executive may appoint a public service employee as an authorised officer.
- (2) However, the chief executive may appoint a public service employee as an authorised officer only if the chief executive is

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satisfied the employee is qualified for appointment because the employee has the necessary expertise or experience.

## **77 Appointment conditions and limit on powers**

- (1) An authorised officer holds office on the conditions stated in—
  - (a) the officer's instrument of appointment under this Act;  
or
  - (b) a signed notice given to the officer; or
  - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the officer's powers under this Act.
- (3) In this section—

*signed notice* means a notice signed by the chief executive.

## **78 Issue of identity card**

- (1) The chief executive must issue an identity card to each authorised officer.
- (2) The identity card must—
  - (a) contain a recent photo of the authorised officer; and
  - (b) contain a copy of the authorised officer's signature; and
  - (c) identify the person as an authorised officer under this Act; and
  - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

## **79 Production or display of identity card**

- (1) In exercising a power under this Act in relation to a person, an authorised officer must—

- (a) produce the authorised officer's identity card for the person's inspection before exercising the power; or
  - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an authorised officer does not exercise a power in relation to a person only because the authorised officer has entered a place as mentioned in section 83(1)(b) or (c), or 83(2).

## **80 When authorised officer ceases to hold office**

- (1) An authorised officer ceases to hold office if any of the following happens—
- (a) the term of office stated in a condition of office ends;
  - (b) under another condition of office, the authorised officer ceases to hold office;
  - (c) the authorised officer's resignation under section 81 takes effect.
- (2) Subsection (1) does not limit the ways an authorised officer may cease to hold office.
- (3) In this section—

*condition of office* means a condition on which the authorised officer holds office.

## **81 Resignation**

An authorised officer may resign by signed notice given to the chief executive.

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## **82 Return of identity card**

A person who ceases to be an authorised officer must return the person's identity card to the chief executive within 21 days after ceasing to be an authorised officer unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

## **Division 3 Powers of authorised officers**

### **Subdivision 1 Entry of places**

#### **83 Power to enter places**

- (1) An authorised officer may enter a place if—
  - (a) an occupier of the place consents to the entry; or
  - (b) it is a public place and the entry is made when it is open to the public; or
  - (c) it is not a home and the entry is made when the place is open for carrying on business or otherwise open for entry.
- (2) For the purpose of asking an occupier of a place for consent to enter, an authorised officer may, without the occupier's consent or a warrant—
  - (a) enter land around the premises at the place to an extent that is reasonable to contact the occupier; or
  - (b) enter part of the place the authorised officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

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## **Subdivision 2 Procedure for entry**

### **84 Entry with consent**

- (1) This section applies if an authorised officer intends to ask an occupier of a place to consent to the officer or another authorised officer entering the place under section 83(1)(a).
- (2) Before asking for the consent, the authorised officer must tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgement of the consent.
- (4) The acknowledgement must state—
  - (a) that the occupier has been told—
    - (i) the purpose of the entry; and
    - (ii) that the occupier is not required to consent; and
  - (b) the purpose of the entry; and
  - (c) that the occupier gives the authorised officer consent to enter the place and exercise the powers under this part; and
  - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgement, the authorised officer must immediately give a copy to the occupier.
- (6) If—
  - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
  - (b) an acknowledgement complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

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### **Subdivision 3 Powers after entry**

#### **85 General powers after entering a place**

- (1) This section applies to an authorised officer who enters a place.
- (2) However, if an authorised officer enters a place to get an occupier's consent to enter the place, this section applies to the officer only if the consent is given or the entry is otherwise authorised.
- (3) For investigating an offence against this Act, the authorised officer may do any of the following—
  - (a) search any part of the place;
  - (b) inspect, photograph or film any part of the place or anything at the place;
  - (c) copy a document at the place;
  - (d) confer alone with a person at the place;
  - (e) require a person at the place to give the authorised officer reasonable help to exercise the authorised officer's powers under paragraphs (a) to (d);
  - (f) require a person at the place to answer questions by the authorised officer to help the authorised officer ascertain whether this Act is being or has been complied with.
- (4) When making a requirement mentioned in subsection (3)(e) or (f), the authorised officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

#### **86 Failure to help authorised officer**

A person required to give reasonable help under section 85(3)(e) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

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**87 Failure to answer questions**

- (1) A person of whom a requirement is made under section 85(3)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) It is a reasonable excuse for an individual to fail to comply with the requirement because complying with the requirement might tend to incriminate the individual.

**Subdivision 4 Power to obtain information**

**88 Power to require name and address**

- (1) This section applies if an authorised officer—
- (a) finds a person committing an offence against this Act; or
  - (b) finds a person in circumstances that lead the authorised officer reasonably to suspect the person is committing, or has just committed, an offence against this Act; or
  - (c) has information that leads the authorised officer reasonably to suspect the person is committing, or has just committed, an offence against this Act.
- (2) The authorised officer may require the person to state the person's name and residential address.
- (3) When making the requirement, the authorised officer must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.
- (4) The authorised officer may require the person to give the authorised officer evidence of the correctness of the stated name or residential address if the authorised officer reasonably suspects the stated name or address to be false.

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## **89 Failure to give name or address**

- (1) A person of whom a requirement is made under section 88(2) or (4) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) A person does not commit an offence against subsection (1) if—
- (a) the person was required to state the person's name and residential address by an authorised officer who suspected the person had committed an offence against this Act; and
  - (b) the person is not proved to have committed the offence.

## **90 Power to require particular information or inspect documents**

- (1) For the purpose of monitoring or enforcing compliance with this Act, an authorised officer may require an approved trainer or approved training institution to—
- (a) give particular information about the provision of a training service by the trainer or institution, including information about a matter dealt with in the prescribed requirements; or
  - (b) make a document available for inspection by the authorised officer, or produce a document to the authorised officer for inspection, at a reasonable time and place nominated by the authorised officer.
- (2) For the purpose of monitoring or enforcing compliance with this Act, an authorised officer may require a person to make available for inspection by the authorised officer, or produce to the authorised officer for inspection, at a reasonable time and place nominated by the authorised officer—
- (a) a document issued to the person under this Act; or
  - (b) a document required to be kept by the person under this Act.



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## **91 Powers relating to production of documents**

- (1) This section applies to a document made available or produced to an authorised officer under section 90(1)(b) or (2).
- (2) The authorised officer may keep the document to copy it.
- (3) If the authorised officer copies the document, or an entry in the document, the authorised officer may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.
- (4) The authorised officer must return the document to the person as soon as practicable after copying it.
- (5) However, if a requirement is made of a person under subsection (3), the authorised officer may keep the document until the person complies with the requirement.

## **92 Failure to give information or produce or certify document**

- (1) A person of whom a requirement is made under section 90 must comply with the requirement, unless the person has a reasonable excuse.
- (2) It is a reasonable excuse for a person not to comply with a requirement under section 90 that complying with the requirement might tend to incriminate the person.
- (3) A person of whom a requirement is made under section 91(3) must comply with the requirement, unless the person has a reasonable excuse.

*Note—*

Contravention of this section by an approved trainer or approved training institution is a ground for immediately suspending or cancelling the trainer's or institution's approval under section 25(1)(c).

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## Division 4                      Other matters

### 93            Notice of damage

- (1) This section applies if—
  - (a) an authorised officer damages property when exercising or purporting to exercise a power; or
  - (b) a person (the *other person*) acting under the direction or authority of an authorised officer damages property.
- (2) The authorised officer must immediately give notice of particulars of the damage to a person who appears to the authorised officer to be an owner of the property.
- (3) If the authorised officer believes the damage was caused by a latent defect in the property or circumstances beyond the authorised officer's or other person's control, the authorised officer may state the belief in the notice.
- (4) If, for any reason, it is impracticable to comply with subsection (2), the authorised officer must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (5) This section does not apply to damage the authorised officer reasonably believes is trivial.
- (6) In this section—

*owner*, of property, includes a person in possession or control of it.

### 94            Compensation

- (1) If a person incurs loss or expense because of the exercise or purported exercise of a power under division 3, subdivision 1 or 3, the person may claim compensation from the chief executive.
- (2) Without limiting subsection (1), compensation may also be claimed for loss or expense incurred in complying with a requirement made of the person under this part.

- (3) Compensation may be claimed and ordered to be paid in a proceeding—
  - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
  - (b) for an offence against this Act brought against the person claiming compensation.
- (4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

## **95 False or misleading statements**

A person must not, for this Act, state anything to the chief executive or an authorised officer that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

## **96 False or misleading documents**

- (1) A person must not, for this Act, give the chief executive or an authorised officer a document containing information that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
  - (a) tells the chief executive or authorised officer, to the best of the person's ability, how it is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

## **97 Obstructing an authorised officer**

- (1) A person must not obstruct an authorised officer in the exercise of a power, unless the person has a reasonable excuse.

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Maximum penalty—100 penalty units.

- (2) If a person has obstructed an authorised officer and the officer decides to proceed with the exercise of the power, the officer must warn the person that—
- (a) it is an offence to obstruct the officer, unless the person has a reasonable excuse; and
  - (b) the officer considers the person's conduct an obstruction.

## **98 Impersonation of an authorised officer**

A person must not pretend to be an authorised officer.

Maximum penalty—100 penalty units.

# **Part 9 Legal proceedings**

## **Division 1 Application**

### **99 Application of pt 9**

This part applies to a proceeding under this Act.

## **Division 2 Evidence**

### **100 Appointments and authority**

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the chief executive's appointment;
- (b) an authorised officer's appointment;

- (c) the authority of the chief executive or an authorised officer to do anything under this Act.

## **101 Signatures**

A signature purporting to be the signature of the chief executive or an authorised officer is evidence of the signature it purports to be.

## **102 Evidentiary provisions**

- (1) A certificate purporting to be signed by the chief executive and stating any of the following matters is evidence of the matter—
  - (a) a stated document is 1 of the following things made, given, issued or kept under this Act—
    - (i) an appointment, approval or decision;
    - (ii) a notice or requirement;
    - (iii) a record, or an extract from a record;
  - (b) a stated document is a copy of a thing mentioned in paragraph (a);
  - (c) on a stated day, or during a stated period, an appointment as an authorised officer was, or was not, in force for a stated person;
  - (d) on a stated day, a stated person was given a stated notice under this Act;
  - (e) on a stated day, a stated requirement was made of a stated person.
- (2) In a complaint starting a proceeding, a statement that the matter of complaint came to the complainant's knowledge on a stated day is evidence of when the matter came to the complainant's knowledge.

## **Division 3                      Proceedings**

### **103      Summary proceedings for offences**

- (1) A proceeding for an offence against this Act must be taken in a summary way under the *Justices Act 1886*.
- (2) A proceeding for an offence against this Act must start within the later of the following periods to end—
  - (a) 1 year after the commission of the offence;
  - (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

### **104      Allegations of false or misleading information or document**

In any proceeding for an offence against this Act defined as involving false or misleading information, or a false or misleading document, it is enough for a charge to state that the information or document was, without specifying which, 'false or misleading'.

### **105      Responsibility for acts or omissions of representative**

- (1) This section applies in a proceeding for an offence against this Act.
- (2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—
  - (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the

person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

(4) In this section—

*representative* means—

- (a) for a corporation—an executive officer, employee or agent of the corporation; or
- (b) for an individual—an employee or agent of the individual.

*state of mind* of a person includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

## **106 Executive officers must ensure corporation complies with Act**

- (1) The executive officers of a corporation must ensure the corporation complies with this Act.
- (2) If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove—
  - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence, the officer exercised reasonable diligence to ensure the corporation complied with the provision; or

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- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

## **Part 10                      Advisory committee**

### **107      Establishment of advisory committee**

The chief executive may establish an advisory committee from time to time.

### **108      Membership of advisory committee**

An advisory committee has the following membership—

- (a) 1 person the chief executive considers has expertise in guide, hearing or assistance dog training;
- (b) 1 person the chief executive considers has expertise in dog behaviour;
- (c) 1 person with a disability who relies on a guide, hearing or assistance dog;
- (d) 1 representative of the department in which this Act is administered;
- (e) any 3 of the following persons decided by the chief executive—
  - (i) a representative of the department in which the *Animal Care and Protection Act 2001* is administered;
  - (ii) a representative of the department in which the *Transport Operations (Passenger Transport) Act 1994* is administered;
  - (iii) a representative of the advisory committee known as the Disability Council of Queensland and



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established under the *Disability Services Act 2006*,  
section 216;

- (iv) a representative of local government.

### **109 Functions of advisory committee**

An advisory committee's function is to make submissions to the chief executive about—

- (a) an applicant under part 3; or
- (b) an approved trainer; or
- (c) an approved training institution.

### **110 Investigations by advisory committee**

- (1) For making a submission under section 16(1) or 22(1), an advisory committee may inform itself of a matter mentioned in section 14(1).
- (2) Without limiting subsection (1), the advisory committee may inspect the training facilities of an applicant if the applicant consents to the inspection.
- (3) In this section—  
*applicant* means an applicant under section 15, approved trainer or approved training institution.

### **111 Dissolution of advisory committee**

The chief executive may dissolve an advisory committee at any time.

### **112 Other matters**

The chief executive may decide matters about an advisory committee, including, for example, the way a committee must conduct meetings.

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## **Part 11**                      **Miscellaneous**

### **113 Confidentiality of other information**

- (1) This section applies to confidential information other than information mentioned in section 66(1).
- (2) If a person gains confidential information through involvement in this Act's administration, the person must not disclose the information to anyone, other than under subsection (4).

Maximum penalty—100 penalty units.

- (3) A person gains information through involvement in this Act's administration if the person gains the information because of being, or an opportunity given by being—
  - (a) the chief executive; or
  - (b) an authorised officer; or
  - (c) an employee in the department; or
  - (d) a member of an advisory committee.
- (4) A person may disclose confidential information to someone else—
  - (a) for administering, monitoring or enforcing compliance with this Act; or
  - (b) to discharge a function under another law; or
  - (c) for a proceeding in a court or tribunal; or
  - (d) if authorised under another law or a regulation made under this Act; or
  - (e) if the person is authorised in writing by the person to whom the confidential information relates; or
  - (f) to protect the following from abuse, neglect or exploitation—
    - (i) a person with a disability;
    - (ii) an animal.

- (5) However, subsection (4)(e) does not apply unless the person to whom the confidential information relates is an adult when the authorisation is given.

#### **114 Delegation by chief executive**

- (1) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified person who is a public service employee.

- (2) In this section—

*appropriately qualified* includes having the qualifications, experience or standing appropriate to the exercise of the power.

*Example of standing—*

if a person is a public service employee of the department, the person's classification level in the department

#### **115 Protecting officials from liability**

- (1) An official, or a person acting under the direction of an official, is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

- (2) If subsection (1) prevents a civil liability attaching to an official or other person, the liability attaches instead to the State.

- (3) In this section—

*official* means—

- (a) the chief executive; or
- (b) an authorised officer; or
- (c) a public service employee; or
- (d) a member of an advisory committee.

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## **116 Service of documents**

- (1) If a document is required or permitted under this Act to be given to a person, the document may be given to the person by facsimile transmission directed and sent to—
  - (a) the last transmission number given to the giver of the document by the person as the facsimile transmission number for service of documents on the person; or
  - (b) the facsimile transmission number operated—
    - (i) at the address of the person last known to the giver of the document; or
    - (ii) if the person is a corporation, at the corporation's registered office under the Corporations Act.
- (2) A document given under subsection (1) is taken to have been given on the day the document is transmitted.
- (3) This section does not limit any other means of giving documents authorised or permitted by law including, for example, under the *Acts Interpretation Act 1954*, part 10.

## **117 Approval of forms**

The chief executive may approve forms for use under this Act.

## **118 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made about the fees, including the waiving or refunding of fees, payable under this Act.

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## **Part 12**                      **Repeal and transitional provisions**

### **Division 1**                      **Repeal**

#### **119**      **Repeal of Guide Dogs Act 1972**

The Guide Dogs Act 1972 No. 8 is repealed.

#### **120**      **Repeal of Legacy Trust Fund Act 2001**

The Legacy Trust Fund Act 2001 No. 48 is repealed.

### **Division 2**                      **Transitional provisions**

#### **121**      **Definitions for div 2**

In this division—

*commencement day* means the day this section commences.

*repealed Act* means the *Guide Dogs Act 1972*.

#### **122**      **Certain institutions taken to be approved training institutions**

- (1) The following entities are approved as approved training institutions—
- (a) Association for the Blind of Western Australia;
  - (b) Guide Dogs Queensland;
  - (c) Guide Dogs Victoria;
  - (d) Guide Dog Associations of SA and NT Inc.;
  - (e) Lions Hearing Dogs Incorporated;
  - (f) Royal Guide Dogs for the Blind Association of Tasmania (trading as Guide Dogs Tasmania);

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- (g) Seeing Eye Dogs Australia.
- (2) This section does not limit the application of this Act to an approved training institution approved under this section including, for example, a provision about cancelling the approval of the institution.

### **123 Certain guide or hearing dogs may be certified**

- (1) Despite section 36, an entity mentioned in section 122(1) may certify a guide dog for a person with a disability if, before the commencement day, the dog was trained by the entity to be used as a guide for a person with a disability that is attributable to a vision impairment.
- (2) Despite section 37, an entity mentioned in section 122(1) may certify a hearing dog for a person with a disability if, before the commencement day, the dog was trained by the entity to be used as an aid for a person with a disability that is attributable to a hearing impairment.
- (3) An entity may not certify a dog under this section after 1 July 2010.
- (4) To remove any doubt, it is declared that a certification under this section does not end on 1 July 2010 only because of subsection (3).

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**Schedule 1      Parts of a health service facility  
exempt from part 2**

section 7(1)(a)

- an in-patient ward
- a labour ward
- a procedure room
- a recovery area
- an area in which the standard of hygiene is maintained at a significantly high level for the purpose of preventing infection or the spread of disease
- an area for isolating people for the purpose of preventing the movement of pathogens
- a part of a health service facility where the presence of a dog is likely to significantly impair the safe or effective provision of a health service at the facility

## Schedule 4 Dictionary

### section 4

***advisory committee*** means an advisory committee established by the chief executive under part 10.

***approved assistance dog trainer***, for part 4, see section 34.

***approved form*** means a form approved by the chief executive under section 117.

***approved guide dog trainer***, for part 4, see section 34.

***approved hearing dog trainer***, for part 4, see section 34.

***approved trainer*** means an individual approved under part 3 for training guide, hearing or assistance dogs.

***approved training institution*** means a corporation approved under part 3 for training guide, hearing or assistance dogs.

***assistance dog*** means a dog trained to perform identifiable physical tasks and behaviours to assist a person with a disability to reduce the person's need for support.

***conviction*** means a finding of guilt, or the acceptance of a plea of guilty, by a court.

***criminal history***, of a person, means the convictions, other than a spent conviction, recorded against a person for offences, in Queensland or elsewhere, whether before or after the commencement of this Act.

***disability*** see section 5.

***employ*** includes engage on a voluntary basis.

***employee trainer*** means a person employed by an approved training institution to train guide, hearing or assistance dogs.

***guide dog*** means a dog trained to be an effective guide for a person with disability attributable to a vision impairment.

***handler***, of a guide, hearing or assistance dog, means the person with a disability who relies on the dog.



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***handler's identity card*** means an identity card, issued by the chief executive, showing a person with a disability who relies on a guide, hearing or assistance dog with the dog that the person relies on.

***health service*** means a service for maintaining, improving or restoring people's health and wellbeing.

***health service facility*** means a facility where a health service is provided.

*Example—*

hospital, dental surgery, doctor's surgery

***hearing dog*** means a dog trained to be used as an aid by a person with disability attributable to a hearing impairment.

***identification procedure*** see section 12(1).

***information notice***, for a decision of the chief executive, means a signed notice stating the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) the day the decision has effect;
- (d) that, within 28 days after receiving the notice, the interested person may apply to the chief executive for a review of the decision;
- (e) how the interested person may apply for the review.

***interested person***, for part 7, see section 68(2).

***person exercising control***, for part 2, division 3, see section 11.

***prescribed requirements*** means the requirements prescribed under section 31.

***public access test*** see section 35(1).

***public passenger vehicle***, for part 2, see section 6.

***public place***, for part 2, see section 6.

***puppy carer*** means a person who is employed by an approved training institution and is responsible for the socialisation of a trainee support dog that is under 18 months of age.

***reviewable decision***, for part 7, see section 68(1).

***reviewed decision***, for part 7, see section 71(3).

***reviewed decision notice***, for part 7, see section 71(4).

***show cause notice***, for part 3, division 3, see section 24.

***show cause period***, for part 3, division 3, see section 24.

***spent conviction*** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed under section 11 of that Act.

***suitable for approval*** see section 14.

***trainee support dog*** means a dog that is being trained by an approved trainer or approved training institution to be a guide, hearing or assistance dog.

***trainer's identity card*** means an identity card for an approved trainer, employee trainer or puppy carer.

***tribunal*** means the Commercial and Consumer Tribunal established under the *Commercial and Consumer Tribunal Act 2003*.

## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Guide, Hearing and Assistance Dogs Act 2009 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	1 July 2009	
1A	—	1 September 2009	s 13 commenced

## 5 List of legislation

### **Guide, Hearing and Assistance Dogs Act 2009 No. 4**

date of assent 23 February 2009

ss 1–2 commenced on date of assent

s 13 commenced 1 September 2009 (2009 SL No. 125)

s 39(2) not yet proclaimed into force (see s 2)

remaining provisions commenced 1 July 2009 (2009 SL No. 125)

amending legislation—

### **Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 2 pt 8**

date of assent 26 June 2009

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2)

## 6 List of annotations

### **PART 13—AMENDMENT OF OTHER ACTS**

**pt 13 (s 124)** om R1 (see RA ss 7(1)(k) and 40)

### **SCHEDULE 2—AMENDMENTS OF THE ANTI-DISCRIMINATION ACT 1991**

om R1 (see RA s 40)

### **SCHEDULE 3—CONSEQUENTIAL AMENDMENTS**

om R1 (see RA s 40)