



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

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Queensland

# Guide, Hearing and Assistance Dogs Act 2009

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# Guide, Hearing and Assistance Dogs Act 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—
  - (a) protecting the right of people with a disability who rely on guide, hearing or assistance dogs to be accompanied

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- by the person's guide, hearing or assistance dog in places of accommodation and 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 places of accommodation and 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 places of accommodation, public places and public passenger vehicles**

### **Division 1**                      **Preliminary**

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

In this part—

*accompanied handler* means—

- (a) a person with a disability who is accompanied by the certified guide, hearing or assistance dog the person relies on to reduce the person's need for support; or
- (b) an alternative handler who is accompanied by a primary handler and the primary handler's certified guide, hearing or assistance dog for which the alternative handler has a handler's identity card; or
- (c) an approved trainer, employee trainer or puppy carer who is accompanied by a guide, hearing, assistance or trainee support dog.

*place of accommodation* includes the following—

- (a) a house or flat;
- (b) a hotel or motel;
- (c) a boarding house or hostel;
- (d) a caravan or caravan site;

- (e) a manufactured home under the *Manufactured Homes (Residential Parks) Act 2003*;
- (f) a site within the meaning of the *Manufactured Homes (Residential Parks) Act 2003*, section 13;
- (g) a camping site.

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

*Examples—*

bus, ferry, plane, taxi or train

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

## **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—
  - (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 person's certified guide, hearing or assistance dog in a place of accommodation, 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 person's certified guide, hearing or assistance dog into a place of accommodation, public place or public passenger vehicle.

### **8A                      Alternative handler may be accompanied by primary handler and certified guide, hearing and assistance dog**

- (1) Despite any other Act, an alternative handler may, in a place of accommodation, public place or public passenger vehicle, be accompanied by a primary handler and the primary handler's certified guide, hearing or assistance dog for which the alternative handler has a handler's identity card.
- (2) Also, an alternative handler who is accompanied by a primary handler and dog under subsection (1) does not commit an offence merely by taking the dog into a place of accommodation, public place or public passenger vehicle.

### **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 place of accommodation, 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 place of accommodation, 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, 8A and 9 do not—

- (a) affect the lawfulness of a particular person mentioned in section 8, 8A 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.

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

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

A *person exercising control* of a place of accommodation, 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) his or her identity card available for inspection by a person exercising control of a place of accommodation, public place or public passenger vehicle if asked by 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 primary handler’s identity card; or
    - (b) for an alternative handler—an alternative handler’s identity card; or
    - (c) for an approved trainer, employee trainer or a puppy carer—a trainer’s identity card.

## **12A Obligations of persons exercising control of places of accommodation**

- (1) A person exercising control of a place of accommodation must not—
  - (a) refuse to rent accommodation at the place to an accompanied handler because the accompanied handler, while in the place, would be accompanied by a certified guide, hearing, assistance or trainee support dog; or
  - (b) in renting accommodation at the place to an accompanied handler, impose a term that would result in—
    - (i) the accompanied handler paying an extra charge because the dog is present at the place; or



- (ii) a person with a disability being separated, while in the place, from the guide, hearing or assistance dog that the person relies on to reduce the person's need for support; or
- (iii) a person with a disability being refused entry to a part of the place because the person would be accompanied by 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) An accompanied handler must comply with the identification procedure when the accompanied handler—
  - (a) in person at a place of accommodation or another place, makes a reservation or application for accommodation at the place of accommodation; or
  - (b) arrives at a place of accommodation to begin residing in the accommodation at the place.
- (3) It is a defence to a charge of an offence against subsection (1) for the person exercising control of a place of accommodation to prove that the accompanied handler did not comply with subsection (2).
- (4) Subsection (1)(b)(iii) does not apply to a term that would result in the person with a disability being refused entry to a part of a place of accommodation where food is ordinarily prepared for consumption by residents of the place or members of the public.

*Note—*

A person with a disability may also have a right of action under the *Anti-Discrimination Act 1991* or the *Disability Discrimination Act 1992* (Cwlth).

## **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
- (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.

*Note—*

A person with a disability may also have a right of action under the *Anti-Discrimination Act 1991* or 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.

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**16 Chief executive may consult about application for approval**

In considering and deciding the application, the chief executive may consult with any entity the chief executive considers appropriate.

**17 Decision on application for approval**

- (1) To decide the application, the chief executive must consider 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) another matter prescribed by 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.

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- (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.

## **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.

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*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.
- (4) In reviewing the approval, the chief executive may consult with any entity the chief executive considers appropriate.

## **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) another matter prescribed by 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

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- (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.

- (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.

## **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 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

- (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 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.

### **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—

- 
- (i) the primary handler of the dog; or
  - (ii) the primary handler of the dog with the support of an alternative handler.
- (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.communities.qld.gov.au](http://www.communities.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 trainer must not certify own dog**

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.

**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 primary handler's identity card**

- (1) A person with a disability who relies on a guide, hearing or assistance dog is eligible for a primary 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.
- (2) However, subsection (1)(b) does not apply to the person if—
- (a) the person satisfies the requirement mentioned in subsection (1)(a); and
  - (b) an alternative handler's identity card is in effect for the person's guide, hearing or assistance dog.

*Example—*

A child who can not physically control an assistance dog might be eligible for a primary handler's identity card if a parent of the child has an alternative handler's identity card for the dog.

#### **41 Eligibility for alternative handler's identity card**

A person who is an adult is eligible for an alternative handler's identity card in relation to a primary handler's guide, hearing or assistance dog if—

- (a) the primary handler relies on the person to physically control the dog; and
- (b) the person is able to physically control the dog.

#### **42 Issue of handler's identity card**

- (1) A person may ask an approved trainer or approved training institution to issue a handler's identity card to the person.
- (2) The approved trainer or approved training institution may issue the handler's identity card to the person if satisfied the person is eligible for the card under—
  - (a) for a primary handler's identity card—section 40; or
  - (b) for an alternative handler's identity card—section 41.
- (3) An approved trainer or approved training institution must not issue a handler's identity card to anyone other than a person who satisfies the eligibility requirements for the card under section 40 or 41.
- (4) If an approved trainer or approved training institution refuses to issue a handler's identity card to the person, the trainer or institution must immediately give the person 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 3 years after the day the card is issued.

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## **45 Form of handler's identity card**

A handler's identity card must—

- (a) contain a photo of the handler and the handler's certified guide, hearing or assistance dog; and
- (b) comply with the requirements prescribed by regulation.

## **45A Record of handler's identity cards**

- (1) An approved trainer or approved training institution must keep a record of all handler's identity cards issued by the trainer or institution.
- (2) The record must state the following for each handler's identity card—
  - (a) the name of the person to whom the card was issued;
  - (b) a description of the handler's dog;
  - (c) the day the card was issued;
  - (d) the day the card expires;
  - (e) any other information prescribed by regulation.

## **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 dog for which the card was issued is a risk to the health or welfare of the handler or someone else;
  - (b) the dog was certified because of a materially false or misleading representation or declaration;

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- (c) the identity card was issued because of a materially false or misleading representation or declaration;
  - (d) for a primary handler's identity card—the handler no longer relies on the dog;
  - (e) for an alternative handler's identity card—
    - (i) the alternative handler no longer supports the primary handler of the dog to physically control it; or
    - (ii) the primary handler of the dog no longer relies on the alternative handler to physically control the dog.
- (2) Also, it is a ground for cancelling a handler's identity card if the dog for which the card was issued should be retired because of age, illness or other inability to be used as a guide, hearing or assistance dog.

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

- (1) The chief executive or an approved trainer or approved training institution that issued a handler's identity card may, by information notice given to the handler, immediately suspend the handler's identity card if the chief executive, trainer or institution reasonably believes—
- (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, approved trainer or approved training institution decides but not more than 3 months; and
  - (b) has effect immediately when the notice is given.

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## 48 Cancellation of handler's identity card

- (1) If the chief executive or an approved trainer or approved training institution that issued a handler's identity card believes a ground exists to cancel the card, the chief executive, trainer or institution may cancel the card.
- (2) Before cancelling the handler's identity card, the chief executive, approved trainer or approved training institution must give the handler a notice stating the following—
  - (a) that the chief executive, trainer or institution 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, trainer or institution, within a stated period (the *show cause period*), written representations from the handler or an approved trainer or approved training institution 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, approved trainer or approved training institution must consider all written representations given under subsection (2)(d) within the show cause period.
- (5) If the chief executive, approved trainer or approved training institution cancels a handler's identity card, the chief executive, trainer or institution 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 notice of the surrender to the chief executive.

### **Subdivision 3 Other matters**

**50**

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

- (1) If a handler's identity card is cancelled, the handler must, unless the handler has a reasonable excuse, return the card to the person or entity that cancelled it within 1 month after its cancellation.

Maximum penalty—2 penalty units.

- (2) 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 death or retirement of the guide, hearing or assistance dog shown on the card;
  - (b) for an alternative handler's identity card—
    - (i) the alternative handler no longer supports the primary handler of the dog to physically control it; or
    - (ii) the primary handler of the dog no longer relies on the alternative handler to physically control the dog.

Maximum penalty—2 penalty units.

- (3) 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 primary handler; or
- (b) able to assist the dog's primary 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.
- (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 by regulation.
- (3) In this section—

*identity card* means a 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).

### **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—



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*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.

### **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.

**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.

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- (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
  - (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.

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## 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.

## Part 7 Reviews

### 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).

## Division 2                      Reviewable decisions

### 68            Reviewable decisions

- (1) A *reviewable decision* is—
  - (a) a decision of the chief executive to—
    - (i) impose conditions on an approval under section 17; or
    - (ii) refuse to grant an approval under section 17; or
    - (iii) immediately suspend an approval under section 26; or
    - (iv) cancel an approval under section 29; or
    - (v) immediately suspend a handler's identity card under section 47; or
    - (vi) cancel a handler's identity card under section 48; or
  - (b) a decision of an approved trainer or approved training institution to—
    - (i) refuse to issue a handler's identity card under section 42; or
    - (ii) immediately suspend a handler's identity card under section 47; or
    - (iii) 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*) to whom the chief executive, approved trainer or approved training institution was required to give an information notice about the decision.

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## **Division 3                      Review by chief executive**

### **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 or an approved trainer or approved training institution 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 review by the tribunal.

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- (6) The stay may be granted on conditions the tribunal considers appropriate and has effect for the period stated by the tribunal.
- (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 for the review of the reviewed decision.

## **71 Reviewed 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 an application about a decision of the chief executive 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 complying with the QCAT Act, section 157(2) for the decision.
- (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                      Review by tribunal

### 72            Review of reviewed decision

- (1) Subsection (2) applies to an interested person for a reviewed decision, whether or not the interested person has received a reviewed decision notice for the decision.
- (2) The interested person for the reviewed decision may apply, as provided under the QCAT Act, to the tribunal for a review of the reviewed decision.
- (3) If the interested person has received a reviewed decision notice for the reviewed decision, the application filed in the tribunal to start the review must be accompanied by a copy of the reviewed decision notice.
- (4) In this section—

*reviewed decision notice* means a notice complying with the QCAT Act, section 157(2).

## 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 to investigate, monitor and enforce 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 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.

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- (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 in the person’s presence, 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 84(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.

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(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.

## **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 General power to enter places**

(1) An authorised officer may enter a place if—

- (a) an occupier of the place consents under subdivision 2 to the entry and section 84(3) has been complied with for the occupier; 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; or

- (d) the entry is authorised under a warrant and, if there is an occupier of the place, section 84D has been complied with for the occupier.
- (2) If the power to enter arose only because an occupier of the place consented to the entry, the power is subject to any conditions of the consent and ceases if the consent is withdrawn.
- (3) If the power to enter is under a warrant, the power is subject to the terms of the warrant.

## **Subdivision 2 Procedure for entry with consent**

### **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) For the purpose of asking the occupier for the consent, the authorised officer may, without the occupier's consent or a warrant—
  - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
  - (b) enter part of the place the officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact an occupier of the place.
- (3) Before asking for the consent, the authorised officer must tell the occupier—
  - (a) the purpose of the entry, including the powers intended to be exercised; and
  - (b) that the occupier is not required to consent; and
  - (c) that the consent may be given subject to conditions and may be withdrawn at any time.
- (4) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgement of the consent.

- (5) The acknowledgement must state—
- (a) the purpose of the entry, including the powers to be exercised; and
  - (b) the following has been explained to the occupier—
    - (i) the purpose of the entry, including the powers intended to be exercised;
    - (ii) that the occupier is not required to consent;
    - (iii) that the consent may be given subject to conditions and may be withdrawn at any time; and
  - (c) the occupier gives the authorised officer or another authorised officer consent to enter the place and exercise the powers; and
  - (d) the time and date the consent was given; and
  - (e) any conditions of the consent.
- (6) If the occupier signs the acknowledgement, the authorised officer must immediately give a copy to the occupier.
- (7) If—
- (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
  - (b) an acknowledgement complying with subsection (5) 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.

## **Subdivision 2A Entry under warrant**

### **84A Application for warrant**

- (1) An authorised officer may apply to a magistrate for a warrant for a place.
- (2) The authorised officer must prepare a written application that states the grounds on which the warrant is sought.

- (3) The written application must be sworn.
- (4) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

The magistrate may require additional information supporting the written application to be given by statutory declaration.

## **84B Issue of warrant**

- (1) The magistrate may issue a warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting that there is at the place, or will be at the place within the next 7 days, a particular thing or activity that may provide evidence of an offence against this Act.
- (2) The warrant must state—
  - (a) the place to which the warrant applies; and
  - (b) that a stated authorised officer or any authorised officer may with necessary and reasonable help and force—
    - (i) enter the place and any other place necessary for entry to the place; and
    - (ii) exercise the officer's powers; and
  - (c) particulars of the offence that the magistrate considers appropriate; and
  - (d) the name of the person suspected of having committed the offence unless the name is unknown or the magistrate considers it inappropriate to state the name; and
  - (e) the hours of the day or night when the place may be entered; and
  - (f) the magistrate's name; and
  - (g) the day and time of the warrant's issue; and

- (h) the day, within 14 days after the warrant's issue, the warrant ends.

### **84C Defect in relation to a warrant**

A warrant is not invalidated by a defect in—

- (a) the warrant; or
- (b) compliance with this subdivision;

unless the defect affects the substance of the warrant in a material particular.

### **84D Procedure for entry under warrant**

- (1) This section applies if an authorised officer is intending to enter a place under a warrant issued under this subdivision.
- (2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—
  - (a) identify himself or herself to a person who is an occupier of the place and is present by producing the officer's identity card or another document evidencing the officer's appointment;
  - (b) give the person a copy of the warrant;
  - (c) tell the person the officer is permitted by the warrant to enter the place;
  - (d) give the person an opportunity to allow the officer immediate entry to the place without using force.
- (3) However, the authorised officer need not comply with subsection (2) if the officer believes on reasonable grounds that entry to the place without compliance is required to ensure the execution of the warrant is not frustrated.



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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 under section 83(1)(a), (c) or (d).
- (2) However, if the authorised officer enters under section 83(1)(a) or (d), the powers under this section are subject to any conditions of the consent or terms of the warrant.
- (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, examine 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.
- (5) In this section—

*examine* includes analyse, test, account, measure, weigh, grade, gauge and identify.

*film* includes photograph, videotape and record an image in another way.

*inspect*, a thing, includes open the thing and examine its contents.

## **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.

## **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.

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- (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 also require the person to give evidence of the correctness of the stated name or address if, in the circumstances, it would be reasonable to expect the person to—
    - (a) be in possession of evidence of the correctness of the stated name or address; or
    - (b) otherwise be able to give the evidence.

## **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.

## **89A General power to require information**

- (1) This section applies if an authorised officer reasonably believes—
  - (a) an offence against this Act has been committed; and
  - (b) a person may be able to give information about the offence.

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- (2) The authorised officer may, by notice given to the person, require the person to give the officer information related to the offence at a stated reasonable time and place.
- (3) For information that is an electronic document, compliance with the requirement requires the giving of a clear image or written version of the electronic document.
- (4) In this section—  
*information* includes a document.

## **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.
- (3) For information that is an electronic document, compliance with the requirement requires the giving of a clear image or written version of the electronic document.

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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 89A(2) or 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 89A(2) or 90 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 not to comply with a requirement under section 89A(2) or 90 if complying with the requirement might tend to incriminate the individual or expose the individual to a penalty.
- (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).

## 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, 2A 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.

## 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

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- (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**

The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified public service employee.

## **115 Protection 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.

## **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.

## **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 for Act No. 4 of 2009**

#### **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);
  - (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).

## **Division 3 Transitional provisions for Guide, Hearing and Assistance Dogs Amendment Act 2015**

### **124 Applications to chief executive for handler's identity card**

- (1) This section applies to an application for a handler's identity card made under the unamended Act, section 41 but not decided before the commencement.

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- (2) The application must be dealt with under the unamended Act.
- (3) Despite subsection (2), the day of expiry for a handler's identity card issued on the application must not be more than 3 years after the day the card is issued.
- (4) In this section—  
*unamended Act* means this Act as in force before the commencement.

## **125 Term of current handler's identity cards**

Despite section 44 as in force after the commencement, the day of expiry of a handler's identity card that is in effect immediately before the commencement is the day of expiry stated on the card.



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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

*accompanied handler*, for part 2, see section 6.

*alternative handler*, for a guide, hearing or assistance dog, means a person who supports the primary handler of the dog to physically control the dog.

*alternative handler's identity card* means an identity card, issued under this Act, showing a person with a guide, hearing or assistance dog that the person is able to physically control to support the primary handler of the dog.

*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.

*authorised officer* means a person who holds office under part 8 as an authorised officer.

*certified guide, hearing or assistance dog* means a guide, hearing or assistance dog certified under part 4.

*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.

**executive officer**, of a corporation, means a person who is concerned with, or takes part in, the management of the corporation, whether or not the person is a director or the person's position is given the name of executive officer.

**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 a primary handler or an alternative handler of the dog.

**handler's identity card** means a primary handler's identity card or an alternative handler's identity card.

**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).

**identity card**, for a provision about authorised officers, means an identity card issued under section 78(1).

**information notice**, for a decision, 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*** see section 68(2).

***notice*** means a written notice.

***occupier***, of a place, includes the following—

- (a) if there is more than 1 person who apparently occupies the place—any 1 of the persons;
- (b) any person at the place who is apparently acting with the authority of a person who apparently occupies the place;
- (c) if no-one apparently occupies the place—any person who is an owner of the place.

***of***, a place, includes at or on the place.

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

***place*** includes the following—

- (a) premises;
- (b) vacant land;
- (c) a place in Queensland waters;
- (d) a place held under more than 1 title or by more than 1 owner;
- (e) the land or water where a building or structure, or a group of buildings or structures, is situated.

***place of accommodation***, for part 2, see section 6.

***premises*** includes—

- (a) a building or other structure; and
- (b) a part of a building or other structure; and
- (c) a caravan or vehicle; and
- (d) a cave or tent; and

- (e) premises held under more than 1 title or by more than 1 owner.

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

**primary handler**, of a guide, hearing or assistance dog, means a person with a disability who relies on the dog to reduce the person's need for support.

*Example of a primary handler—*

a child with a disability

**primary handler's identity card** means an identity card, issued under this Act, showing a person with a disability who relies on a guide, hearing or assistance dog with the dog that the person relies on.

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

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

**public place** means a place, or part of the place—

- (a) the public is entitled to use, that is open to members of the public or that is used by the public, whether or not on payment of money; or
- (b) the occupier of which allows, whether or not on payment of money, members of the public to enter.

*Examples of a public place—*

a beach, a restaurant, a shopping centre, a showground

**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.

**reasonably believes** means believes on grounds that are reasonable in the circumstances.

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

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

**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.

***term***, for part 2, see section 6.

***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 QCAT.