



Queensland

Guide, Hearing and Assistance Dogs Amendment Act 2015

Act No. 21 of 2015



Queensland

Guide, Hearing and Assistance Dogs Amendment Act 2015

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Queensland

Guide, Hearing and Assistance Dogs Amendment Act 2015

Act No. 21 of 2015

**An Act to amend the Guide, Hearing and Assistance Dogs Act 2009 for
particular purposes**

[Assented to 6 November 2015]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Guide, Hearing and Assistance Dogs Amendment Act 2015*.

2 Commencement

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

Part 2 Amendment of Guide, Hearing and Assistance Dogs Act 2009

3 Act amended

This part amends the *Guide, Hearing and Assistance Dogs Act 2009*.

4 Amendment of s 6 (Definitions for pt 2)

(1) Section 6, definition *certified guide, hearing or assistance dog*—

omit.

(2) Section 6, definition *accompanied handler*—

insert—

(ab) 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

- (3) Section 6, definition *accompanied handler*, paragraphs (ab) and (b)—

renumber as paragraphs (b) and (c).

- (4) Section 6, definition *public place*—

omit.

5 **Amendment of s 8 (People with a disability may be accompanied by their guide, hearing and assistance dogs)**

Section 8, 'the guide'—

omit, insert—

the person's certified guide

6 **Insertion of new s 8A**

After section 8—

insert—

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.

[s 7]

7 Amendment of s 10 (Lawful presence at a place or on a vehicle)

(1) Section 10, ‘sections 8 and 9’—

omit, insert—

sections 8, 8A and 9

(2) Section 10(a), ‘section 8 or 9’—

omit, insert—

section 8, 8A or 9

8 Amendment of s 12 (Identification procedure for handlers and trainers)

(1) Section 12(2)(a)(ii)—

omit, insert—

(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

(2) Section 12(4), definition *identity card*—

omit, insert—

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.

(3) Section 12(4), definition *valid application notice* and note—

omit.

9 Amendment of s 12A (Obligations of persons exercising control of places of accommodation)

(1) Section 12A(3)—

omit, insert—

(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).

(2) Section 12A(4), note, after ‘under the’—

insert—

Anti-Discrimination Act 1991 or the

10 Amendment of s 13 (Obligations of persons exercising control of public places and public passenger vehicles)

Section 13(2), note, after ‘under the’—

insert—

Anti-Discrimination Act 1991 or the

11 Replacement of s 16 (Submissions from advisory committee)

Section 16—

omit, insert—

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.

12 Amendment of s 17 (Decision on application for approval)

(1) Section 17(1), from ‘The’ to ‘and’—

omit, insert—

[s 13]

To decide the application, the chief executive must consider

(2) Section 17(2)(d) and (e)—

omit, insert—

(d) another matter prescribed by regulation.

13 Amendment of s 21 (Review of approval)

Section 21—

insert—

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

14 Omission of s 22 (Submissions from advisory committee)

Section 22—

omit.

15 Amendment of s 23 (Decision on review)

Section 23(1)(d) and (e)—

omit, insert—

(d) another matter prescribed by regulation.

16 Amendment of s 30 (Voluntary surrender of approval)

Section 30(1), ‘written’—

omit.

17 Amendment of s 32 (Approved trainers and approved training institutions must give notice of change)

Section 32(1), ‘written’—

omit.

18 Amendment of s 35 (Public access test)

Section 35(1)(b)—

omit, insert—

(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.

19 Replacement of s 39 (Approved or employee trainer must not certify own dog)

Section 39—

omit, insert—

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.

20 Amendment of s 40 (Eligibility for handler's identity card)

(1) Section 40, before 'handler's'—

insert—

primary

(2) Section 40(c)—

omit.

(3) Section 40—

insert—

(2) However, subsection (1)(b) does not apply to the person if—

- (a) the person satisfies the requirement mentioned in subsection (1)(a); and

[s 21]

- (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.

21 Replacement of ss 41–43

Sections 41 to 43—

omit, insert—

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.

22 Amendment of s 44 (Term of handler's identity card)

Section 44(2)—

omit, insert—

- (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.

23 Replacement of s 45 (Notice of expiry of handler's identity card)

Section 45—

omit, insert—

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.

[s 24]

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.

24 Replacement of s 46 (Grounds for immediate suspension or cancellation of handler's identity card)

Section 46—

omit, insert—

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;
 - (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.

25 Amendment of s 47 (Immediate suspension of handler's identity card)

- (1) Section 47(1), 'chief executive', first mention—
omit, insert—
chief executive or an approved trainer or approved training institution that issued a handler's identity card
- (2) Section 47(1), 'a handler'—
omit, insert—
the handler
- (3) Section 47(1), 'chief executive' second mention—
omit, insert—
chief executive, trainer or institution
- (4) Section 47(3)(a), 'chief executive'—
omit, insert—
chief executive, approved trainer or approved training institution

[s 26]

26 Amendment of s 48 (Cancellation of handler's identity card)

(1) Section 48(1) and (2)—

omit, insert—

- (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.

(2) Section 48(4)—

omit, insert—

- (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.

(3) Section 48(5), 'chief executive' first mention—

omit, insert—

chief executive, approved trainer or approved training institution

- (4) Section 48(5), ‘chief executive’ second mention—

omit, insert—

chief executive, trainer or institution

27 Amendment of s 49 (Voluntary surrender of handler’s identity card)

Section 49, ‘written’—

omit.

28 Omission of s 50 (Replacement of handler’s identity card)

Section 50—

omit.

29 Amendment of s 51 (Return of handler’s identity card)

- (1) Section 51(1)—

omit, insert—

- (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.

- (1A) 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—

[s 30]

- (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.

(2) Section 51(2), definition *retirement*, after ‘dog’s’—
insert—

primary

(3) Section 51(1A) and (2)—
renumber as section 51(2) and (3).

30 Amendment of s 56 (Issue of identity card for employee trainer or puppy carer)

Section 56(2)(b), ‘in a’—

omit, insert—

by

31 Replacement of s 68 (Reviewable decisions)

Section 68—

omit, insert—

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.

32 Amendment of s 69 (Application for review)

Section 69(3), after 'chief executive', second mention—

insert—

or an approved trainer or approved training institution

33 Amendment of s 71 (Reviewed decision)

Section 71(2), 'the application'—

omit, insert—

an application about a decision of the chief executive

[s 34]

34 Amendment of s 74 (Purpose of pt 8)

Section 74, from ‘for the purpose’ to ‘Act’—

omit, insert—

to investigate, monitor and enforce compliance with
this Act

35 Amendment of s 79 (Production or display of identity card)

(1) Section 79(1), after ‘to a person’—

insert—

in the person’s presence

(2) Section 79(3), ‘83(2)’—

omit, insert—

84(2)

36 Replacement of s 83 (Power to enter places)

Section 83—

omit, insert—

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.

37 Replacement of pt 8, div 3, sdiv 2 hdg (Procedure for entry)

Part 8, division 3, subdivision 2 heading—

omit, insert—

Subdivision 2 Procedure for entry with consent

38 Amendment of s 84 (Entry with consent)

(1) Section 84—

insert—

- (1A) 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.

(2) Section 84(2)(a), after 'entry'—

insert—

, including the powers intended to be exercised

[s 38]

(3) Section 84(2)—

insert—

- (c) that the consent may be given subject to conditions and may be withdrawn at any time.

(4) Section 84(4)—

omit, insert—

(4) 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.

(5) Section 84(6)(b), 'subsection (4)'—

omit, insert—

subsection (5)

(6) Section 84(1A) to (6)—

renumber as section 84(2) to (7)

39 Insertion of new part 8, div 3, sdiv 2A

Part 8, division 3—

insert—

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—

[s 39]

- (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.

40 Amendment of s 85 (General powers after entering a place)

- (1) Section 85(1), after 'place'—
insert—
under section 83(1)(a), (c) or (d)
- (2) Section 85(2)—
omit, insert—
 - (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) Section 85(3)(b), 'photograph'—
omit, insert—
examine
- (4) Section 85—
insert—
 - (5) In this section—

[s 41]

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.

41 Amendment of s 88 (Power to require name and address)

Section 88(4)—

omit, insert—

- (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.

42 Insertion of new s 89A

After section 89—

insert—

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.
- (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.

43 Amendment of s 90 (Power to require particular information or inspect documents)

Section 90—

insert—

- (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.

44 Amendment of s 91 (Powers relating to production of documents)

Section 91(1), ‘section 90(1)(b)’—

omit, insert—

section 89A(2) or 90(1)(b)

45 Amendment of s 92 (Failure to give information or produce or certify document)

Section 92(1) and (2)—

omit, insert—

- (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.

[s 46]

- (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.

46 Amendment of s 94 (Compensation)

Section 94(1), ‘subdivision 1’—

omit, insert—

subdivision 1, 2A

47 Omission of pt 10 (Advisory committee)

Part 10—

omit.

48 Replacement of s 114 (Delegation by chief executive)

Section 114—

omit, insert—

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.

49 Amendment of s 115 (Protecting officials from liability)

- (1) Section 115, heading ‘Protecting officials’—

omit, insert—

Protection

- (2) Section 115(3), definition *official*, paragraph (d)—

omit.

50 Replacement of pt 12, div 2 hdg (Transitional provisions)

Part 12, division 2, heading—

omit, insert—

**Division 2 Transitional provisions for
Act No. 4 of 2009**

51 Insertion of new pt 12, div 3

Part 12—

insert—

**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.
- (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.

[s 52]

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.

52 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *advisory committee*, *certified guide*, *hearing or assistance dog*, *handler*, *handler's identity card*, *interested person* and *public place*—

omit.

- (2) Schedule 4—

insert—

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.

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.

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.

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

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.

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.

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

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

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 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

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

- (3) Schedule 4, definition *information notice*, 'of the chief executive'—

omit.