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# **ADDENDUM - DRAFT SOLUTIONS**

## **SERVICE DOG ACCREDITATION SCHEME -**

### **PART III**

## **SERVICE DOGS – A NATIONAL APPROACH**



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## FOREWORD PART III

Part of our submission includes presenting some DRAFT solutions, ideas of how to achieve and help establish the National Service Dog Act (**NSDA**) and show that Part I does not supply hollow ideas, but ideas that have been thought and worked through to a practical level that can be taken further in pursuing the ideal solution.

Part II – FAQ is knitting the submission (Part I), the questions (Part II) and the draft answers (Part III) together. This creates a ‘workable proposal’ ready for fine-tuning, ensuring it meets equity, inclusion, involvement, diversion, and all-encompassing needs of the end user, whilst protecting the public at large as has been the intention of the **DDA92**.

There will still be questions unanswered and ideas that need reworking, but Section III tables some hands-on, practical, thought-through DRAFT solutions (written by people from the industry and working in the field) to underpin the need for the **NDSA**.

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## **PART III – NO 1 THE DIFFERENCE BETWEEN A SERVICE DOG, A THERAPY DOG AND AN ASSISTANCE DOG**

People refer to their four-legged disability aid differently. This simple factsheet will clarify the different classifications, to the understanding of all.

The definitions have been compiled to assist and provide uniformity; however, they are not exclusive or legal definitions.

Service Dog<sup>1</sup>: An Assistance dog trained to perform additional *specific* tasks for a person with a disability is defined as a service dog (e.g., an assistance dogs that also picks up phones, glasses, carries the purse, finds the shoes etc.). Service dogs are referred to as a ‘disability aid’ and therefore the handler has the right to take their dog with them (see conditions [DDA92 section 54](#))

Assistance Dog: a dog trained to perform tasks for a specific person with a disability to help alleviate or reduce the disability is defined as an assistance dog (e.g., a dog offering support by being present). Assistance dogs are referred to as a ‘disability aid’ and therefore the handler has the right to take their dog with them (see conditions [DDA92 section 54](#))

Therapy dog: These provide therapy in settings like a hospital, hospice, nursing homes, schools and rehabilitation centres. They are dogs employed by professional therapists to provide comfort, increased social interaction and relief from stress for a person with disabilities.

A therapy dog is a canine that might be trained and who works with their owner, to provide unconditional love and non-judgment to as many people as is needed. They provide affection and comfort to people in hospitals, retirement homes, nursing homes, schools, hospices, disaster areas, and to people with autism. Therapy dogs are usually not assistance or service dogs.

Therapy dogs are *not* service animals and are not afforded the same legal privileges under the DDA92

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<sup>1</sup> **For the ease of this submission we consider service dogs as the umbrella word to describe the family of skilled and trained dogs to help alleviate disability issues for the genuine handler needing these dogs to empower them to lead a more fulfilling life.**

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Facility dog One dog who works with up to two different handlers, and many different people. Usually, the handlers are counsellors, or people within a professional organisation, such as a lawyer, a prosecutor, a court dog to help a Child Witness, a school dog to help reading and reduce pupil stress etc.

These dogs are generally trained as Assistance dogs and have reached the level of accreditation, but do not need to be accredited.

They do *not* have legal rights under the DDA92 in public but may well have right assigned to them in their facility, that are not valid outside the premises

Emotional Support Dog An emotional support animal is one which provides comfort to help relieve a symptom or effect of a person's disability. An emotional support animal is not a pet and is generally not restricted by species. An emotional support animal differs from a service animal.

It does *not* have any rights under the DDA92.

Psychiatric support Dog This is a recognised sub-category of service dog trained to assist their handler with a psychiatric disability or a mental disability, such as obsessive-compulsive disorder, post-traumatic stress disorder, schizophrenia, depression, anxiety, and bipolar disorder. A psychiatric service dog assists their handler by providing a safe presence that grounds them; the dog may perhaps lean on the person to provide a calming pressure. Depending on a Disability Certificate issued would place this category under Service Dog.

Companion dog usually describes a dog that does not work, providing only companionship as a pet, rather than usefulness by doing specific tasks. Many of the toy dog breeds are used only for the pleasure of their company, not as workers. They have *no* legal rights under the DDA92

Other: There are other ways that dogs help people like guide dogs, hearing dogs, medical alert dogs, Alzheimer dogs, epilepsy dogs and each has a very specific training, for which specialist trainers are recommended.

Provided that these dogs meet the requirements of the DDA92, they are a sub-part of Service Dogs and have the same rights.

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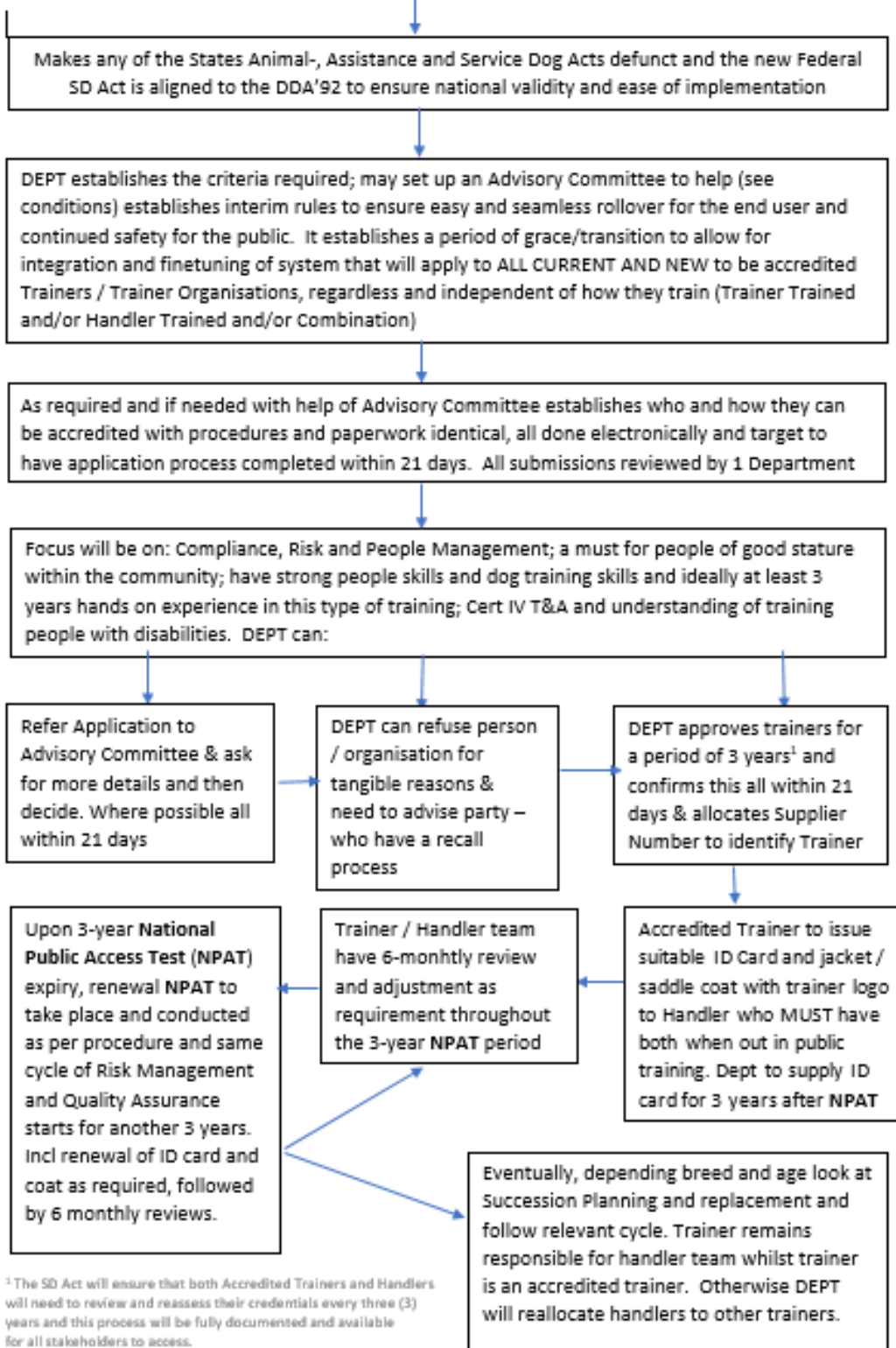
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## PART III – NO 2 FLOW CHART ACCREDITATION RECOMMENDATIONS

NATIONAL ACCREDITATION SYSTEM, part of the *Federal Service Dog Act (SD Act)*, administered and funded by the Federal Department of Social Services (Hereafter called the DEPT).



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## PART III – NO 3 SERVICE DOGS ACCREDITATION RECOMMENDATIONS

### DEMAND AND NEED:

The past few years has seen a tremendous increase in usage of Service Dogs to help many people with different needs and requirements (PTSD, Epilepsy, ASD, and many more); however, this ever increasing demand has not been matched with supply, both from 'trainer trained' sources and the now more popular 'handler trained' options. The latter is developing quicker as it requires less resourcing, is less restrictive and it offers many additional health benefits.

A National Accreditation scheme, that takes much of the duplicating development and research work away from the States is necessary to introduce their own state government approved schemes.

"Service dog" should be defined in the **Service Dog Act (SD Act)** and all other relevant Acts, regulations and policies as:

"A guide dog, hearing dog, or assistance dog", certified by an accredited service dog trainer or 'training organisation'<sup>2</sup> as trained to perform tasks and functions that assist a person with impairment to alleviate the effects of their impairment".

The **Service Dog Act (SD Act)** should include a definition of "service dog in training" to mean "A guide dog, hearing dog, or assistance dog certified by an accredited service dog trainer as being in training". The provisions of the Act should apply to these dogs.

Many areas have been asking for a National Scheme for Service Dogs, including smaller organisations that do not have the Accredited Trainers and Public Access Test accreditors. This is leading to an increased number of organisations using the **DDA92** to circumvent the PAT to help people meet the requirements of training, hygiene, health, behaviour and safety for the public at large.

This document seeks to address most of the issues, prepared by people from the industry who have worked with and around state systems, and have worked with many end users – and present this as a solution for all stakeholders to consider.

Whilst certainly not perfect, it is hoped that there is enough substantiating validity in this submission to warrant pursuing a National Service Dog Accreditation Scheme (**NSDAS**) as soon as possible.

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<sup>2</sup> 'Trainer' refers to an individual meeting the training requirements as an Assistance dog trainer and they are listed as individuals on Governments sites – whereas Training Organisations are used for any registered charity or Pty Ltd that has a number of trainers engaged directly by these organisations as qualified trainers in this specialist field. Trainers engaged by these organisations must meet the same training requirements as the individual trainers, yet the compliance requirements will rest with the organisation.

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## ACCREDITING TRAINERS

Sentiments are strong that an accreditation scheme (part of the Federal **Service Dog Act**, administered by and funded by Federal Department of Social Services) (**SD Act**) is crucial to ensure high-level training standards and consistent, safe and quality service provision for vulnerable people with disabilities. It is felt that accreditation would help to protect the good reputation of existing establishments as well as set the standard for new and emerging organisations. It also ensures respectful and empathetic, professional training of handler and dog team which in turn would enhance public confidence in the quality of Service Dogs.

Some are opposed to the adoption of a National Service Dog Accreditation System (**NSDAS**). Concern that an accreditation scheme might create barriers, additional paper hurdles and force handler teams to fit into a system that may well not suit them. Some organisations, while supportive of accreditation, are mindful that any scheme should not be overly bureaucratic or create cost obstacles and use restrictive resources that could be better spent on training.

Others are concerned that their current, unquestioned, superiority in the industry may be diluted by a new National accreditation system for Service Dogs.

However, most believe that accrediting suitable professional specialist Service Dog trainers is sound, including consumers, major training organisations and government agencies. Significant support comes from the public transport operators and airlines, the hospitality industry; hospitals and medical centers who all support national accreditation.

Accreditation would be one of the key items to encompass risk management for handler, public and suppliers to the handlers.

The substantive policy issues relating to an accreditation scheme include:

- Whether to include private Service Dog trainers and owner trained or limit the scheme to organisations only
- Do ‘Handler Trained Service Dog’ trainers offer the same quality training and support as ‘Trainer Trained Dogs’ that are matched with handlers
- What will be the additional requirements for a National scheme of trainers/training organisations and the compliance requirements and the result of a Nationally recognised Service Dog PAT (**NPAT**)
- What happens with the current accreditation and PAT systems that are applicable around Australia?
- Why – if the **DDA92** guides the States to regulate this matter do we need to present a National approach? State legislation would become defunct for this matter. State organisations would also become defunct after the transition period.

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## WHO SHOULD BE ELIGIBLE FOR ACCREDITATION?

### ORGANISATIONS:

Most agree that suitable training organisations should be eligible for accreditation. However, there is some concern that the current lack of enough suitable professional and experienced providers of Service Dogs may increase reliance on ‘Handler Trained’ private- or owner trained, or force people to use organisations that are non-local or not offering the standards required.

An accredited training organisation model exposes the question of current gaps in provision, regarding geographic spread of suitable training organisations, costs, and the range of disabilities for which they provide trained dogs.

If an accreditation system is to work, there needs to be a range of organisations accredited to provide well-trained Service Dogs to alleviate a range of disabilities. The industry needs to develop further in order to ensure that **all people** have access to the benefits that Service Dogs can bring, regardless of location, resources available and their disability.

A monopoly of trainers (training the dogs) is to be avoided as costs of ‘Trainer Trained Dogs’ will exclude a large section of people with less funds at their disposition. In addition, the output of these organisations is insufficient to meet current demand (resulting in waiting lists years long).

### PRIVATE AND OWNER/HANDLER TRAINED

One of the issues often grappled with is whether accreditation of the Service Dog should be extended to owner/handler trained Service Dogs (sometimes called informal trainers).

With waiting lists of up to 12 months or longer people may seek a private trainer if they have the means to pay as their need should be fulfilled ‘now’. A common dialogue often heard; "I have tried to get my privately trained dog recognised. There is no organisation to help. I have been met with brick walls".

People with a disability may wish to train their existing dog or select a dog to be a Service Dog themselves. Handler Trained Service Dogs are evolving quickly and are far more commonplace in recent times.

Whilst there are currently very few organisations offering full professional training support to these people, it is interesting to note that even the larger ‘trainer trained Service Dog organisations have explored opportunities in the field of ‘Handler Trained Service Dogs’, further blurring the requirements for suitable Service Dog Accreditation! Yet some learned quickly that it requires a different training methodology, and some have already reverted to their core delivery methods.

### RECOMMENDATIONS

The objective of a National Service Dog Accreditation Scheme (**NSDAS**) is to offer as many different types of training as can be made available to people with a disability wanting to access this sort of service and have the medical credentials underpinning the requirements for a Service Dog.

There are many ‘roads to Rome’, and if getting to Rome is the objective, some want to be speedy, others enjoy the sightseeing and others want different things. Any of these options

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will require different means to get there, and the **Department (Federal Department of Social Services)** recommends having a large scope of means / services to assist and meet the required numbers of handler teams.

**NB:** There is plenty of scientific evidence to substantiate the use of Service Dogs over ongoing medication and dedicated care that requires very expensive ongoing resources. If a Service Dog can replace these and offer the recipient a better quality of life, less risk of more medical issues, better integration in society, more physical and mental exercise and less strain on family, friends and external support resources, the Department believes this option should obtain priority status to investigate further.

People living in the main cities normally have a bigger choice and have better and varied options at different cost to someone in the country where there is less choice, support and more costs and [usually] less chance for the disabled person to be able to take advantage of any of the services.

Like the ‘School of the Air’, the ‘Flying Doctor Service’ and the likes have been initiatives to assist people living remotely, the Department will not exclude similar technological options that take advantage of our G4/G5 systems and be able to deliver this sort of training remotely, electronically, professionally, for as long as the standard meets what is demanded for this sort of training, the caring for the person and the welfare and well-being of the animal – and offer the ongoing support needed, often questioned by the larger charities in this field.

## APPROVAL OF TRAINERS OF SERVICE DOGS

### WHO IS SUITABLE FOR APPROVAL?

- A person is suitable for approval if the person is able to;
  - show they are of the highest personal and work ethic and can show they can handle people with disabilities with respect, care and empathy, whilst always ensuring their safety.
  - meet all required regulatory requirements/licences (may vary state by state, therefore as applicable. Yet, ideally these will be aligned as well to make the **NSDAS** easier and fairer).
  - In the case a training organisation applies, they need:
    - Business name / Company name registration
    - ABN registration / VAT registration as and when relevant
    - Council registration as a dog trainer / dog training organisation
    - Valid First Aid certificate for each trainer
    - Working with Children or equivalent identification for each trainer
    - Public Liability insurance for no less than \$10M for an individual trainer and \$20M for a training organisation
    - Professional Indemnity Insurance for no less than \$1M for an individual trainer and \$2M for a training organisation
    - Other State requirements as appropriate for business compliance and regulations that may apply to trainers and/or training organisations

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- train or show/tell handler how to train reliable Service Dogs that are;
    - able to perform identifiable physical tasks and behaviours for the benefit of a person with a disability; and
    - safe and effective in public places and public passenger vehicles; and
    - select dogs that can meet the individual needs and match the capabilities of a person with a disability; and
    - provide ongoing and regular support to the handlers of the Service Dogs trained by the person – incl after the passing of the NPAT
    - provide either ‘Trainer Trained’ or ‘Handler Trained’ or any combination of both training methods
    - trainer has a proven track record in dog training, using positive reinforcement training, of no less than 3 (three years)
    - trainer has at least equivalent of Cert IV in Training & Assessment and experience in training people with learning disabilities
  - However, a person is not suitable for approval if they have a criminal history that would invalidate their suitability to work with animals and people (adults and children) with a disability:
    - For approval as an approved trainer – the person;
    - For approval as an approved training organisation – the applicant representing the organisation, *including* any of the employee trainers of the person.

#### APPLICATION FOR APPROVAL

- An individual (the applicant) may apply for approval in one or more categories of approved trainer.
- A corporation (or organisation, also the applicant) may apply for approval in one or more categories for approved training organisation.
- A corporation must submit applications for all their relevant employee trainers in the corporation’s selected categories
- Applications may be for ‘Trainer Trained’ and/or ‘Handler Trained’ trainers/organisations
- Any application must be in the approved format and accompanied by each of the following;
  - The documents or information on which the applicant relies to establish their suitability. The base requirements will be the same for Handlers and organisations (extra information may be required for organisations)
  - The base documents include all those that are currently the base for the [GHAD system](#)
  - For approval as an approved trainer;

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- A consent to a criminal history check, in the approved form from the applicant; and
  - A disclosure of the criminal history, if any, of the applicant;
  - Suitable proof of relevant skills in training of dogs and training of people and working with people with disabilities
  - For approval as an approved training organisation;
    - A consent to a criminal history check by AFD, in the approved form, from each employee trainer of the institution; and
    - A disclosure of the criminal history, if any, of each employee trainer of the institution;
    - Proof of technical suitability of each of the relevant professional trainers that are to be accredited as employee trainers and their hands-on experience in dog training
  - The fee, if any, prescribed under a regulation.
  - If requested by the Department, the applicant must provide other documents and information reasonably required by the Department to decide the application.
  - The categories of approved trainer or approved training organisation are the following;
    - Service Dog trainer (all categories)
    - Guide dog trainer
    - Hearing dog trainer
    - Assistance dog trainer – included in the above Service Dog category

#### DECISION ON APPLICATION FOR APPROVAL

- The Department must consider the application, all documents and supporting information provided by the applicant independently and have the discretion to:
- Seek input from the Advisory Committee (as outlined below)
- In considering if the applicant is suitable for approval, the Department must have regard to the following;
  - For an individual;
    - The applicant's qualifications, knowledge and experience in dog (obedience) training; the applicant's qualifications in people training and working with people with disabilities
    - The applicant's criminal history;
  - For a corporation (organisation)



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- The qualifications, knowledge or experience in dog obedience training and people training of each of their employees to be accredited (same as above);
  - The criminal history of each employee trainer;
  - The training methods to be used by the applicant;
  - If ‘Trainer Trained’ or ‘Handler Trained’ applies or a combination thereof
  - If a submission is requested, the submission and any further representation about the submission received;
  - Another matter prescribed under a regulation.
  - Also, the Department may have regard to the following;
    - The applicant’s membership of an organisation that promotes standards of positive dog training;
    - Qualifications, or knowledge or experience of the applicant’s employees, that demonstrates an understanding of the needs of people with a disability.
    - Continuous improvement in learning and development of trainers and the organisation (incl Best Practice)
  - If the Department is satisfied that the applicant is suitable for approval, the Department must decide to grant the approval to proceed to the next level - a ‘face to face assessment of skills’ at their earliest convenience (see below more details)
  - The Department may impose special conditions on the approval that the Department considers reasonable and relevant, based on the supplied paperwork/submission.
  - If the Department is not satisfied that the applicant is suitable for approval (based on that which is submitted), the department must decide to refuse to grant approval at their earliest convenience
  - The department will apply all reasonable effort to secure this process is completed with *a minimum of delay* (and completed within **no more than 28 days** from receipt of the application).
  - If any delay, the Department will communicate with the applicant about any anticipated delay by email indicating anticipated conclusion dates.

#### NOTIFICATION OF A DECISION TO PROCEED TO NEXT LEVEL - ‘PRACTICAL ASSESSMENT’

- Based on review of the paperwork / submission, the Department decides to proceed to the – next - practical phase of the assessment, the Department must select assessors from the current pool of accredited trainers, however:
  - If the Applicant is a ‘Trainer Trained’ trainer, the assessors MUST be from that same training field
  - If the Applicant is a ‘Handler Trained’ candidate, the assessors MUST be from the same training methodology as the differences between the two are too great to ensure a fair evaluation

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- The Practical assessment should be based on the same guidelines, regardless of the training methodology used:
    - Two assessors conduct the session
    - The premise of the assessment is to evaluate the PRACTICAL aspects of the application only, and therefore should focus on that only with no further review of policies, procedures, paperwork
    - The assessment is based on observing the Applicant work with TWO clients [Handler Team], either new, current or nearly ready for PAT testing
    - The Practical assessment is about **observing**:
      - The manner of communication Applicant and client
      - The process of transfer of knowledge (adult learning principles must be applied)
      - The Applicant must show how to train at least ONE skill to the Client
      - The process used by the Applicant to assess the learning that has just been shown to the handler
      - The process of follow up 'reinforcement' training that the client is asked to do (homework)
      - The assessors may ask the Client questions related to how they think the learning is progressing – and if they have any major obstacles that haven't been addressed
      - This process should not take more than 30 minutes each handler team / client
      - The Applicant will arrange the sessions with TWO different clients, at different levels of training and ideally different client types
    - The Assessors will complete a questionnaire on the observations made – independently from each other – and make recommendations to the Department on outcome
    - It is to be noted that the Department will have the final say, either direct or via the Chairman of the advisory committee
    - It should also be noted and taken into consideration the pressure the Assessors put the Applicant and their client under with this process. Therefore, consideration must be made, and reasonable adjustment applied of the following:
      - Assessors may recommend proceeding with appointment
      - Assessors may recommend for Applicant to work with a Mentor appointed by the Department to gain more confidence and skills for a set period (max 12 months, in

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two blocks of 6 months each with assessment by the Mentor at end of each block of 6 months).

This arrangement will require the Applicant to work with the Mentor on improving their procedures and skills as outlined in the review and a temporary appointment as a 'Mentored Trainer' may apply

- Assessors may recommend rejecting applicants, based on lack of skills, empathy, ability or other obvious reasons that would not be remedied within reason
- **NB:** Assessors are required to weigh personality, interpersonal skills, how the client handled the dog and handler and their professionalism over technical skills as they can be taught, but only with the right required personality traits of an applicant
- **NB:** Assessors are to consider carefully growing the number of trainers without diluting the quality training given to disadvantaged people

## NOTIFICATION OF DECISION

- If the department decides to grant an approval to the applicant to proceed to the Department must;
  - immediately give the applicant a notice of the decision by email; and
  - notify the name and category of the approved trainer or approved training organisation (listing also the approved trainers) in a Government gazette.
- If the Department decides to impose conditions on the approval, Department must immediately give the applicant, an information notice of the decision.
- If the Department decides to refuse to grant an approval to the applicant, it must immediately give the applicant notice of the decision.

## APPROVAL DURATION

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

## ADVISORY COMMITTEE

### IT'S ROLE AND REVIEW OF SUBMISSIONS

- After receiving an application, the Department may ask the advisory committee for a review of the applicant's submission.
- The role of the Advisory Committee is limited to making recommendations to the Department and as such not responsible for the outcome of any submission

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- The Advisory Committee may review cases using electronic means like email / Skype / online meetings to make the process more efficient
  - The Advisory Committee should consist of a balanced and fair representation of at least three (3) currently accredited individual trainers, and/or heads of training organisations – with accreditation from ADA/ADI/GD/HD/GHAD considered as suitable and the members selected must have hands-on experience in assessing and accrediting training standards for handlers that empower them the freedom to have an accredited dog (Minimum requirements is current Cert IV Training & Assessment)
  - The Advisory Committee needs to have an equitable representation of ‘Handler Trained’ and ‘Trainer Trained’ organisations to ensure a broad representation
  - As previously identified 1-2 members representing the actual users (disability consumer representatives) may also be invited to create a committee of not more than 5 people.
  - The Advisory Committee is put together by the Department and invited for a period of 3 years after which the Department can re-appoint for one more 3-year period and/or select other candidates meeting the requirements.
  - Within 7 days of receiving a request the advisory committee must;
    - Give the Department a written submission about the Applicant; and
    - Give the Applicant;
      - A copy of that submission; and
      - A notice stating that the Applicant may make further written representations to the Department about the submission within fourteen days after the applicant is given the notice and copy of the submission.
    - Within seven days after receiving the notice and copy of the submission, the applicant may make further written representations to the Department about the submission made by the Advisory Committee

The Department may also access the Committee for any guidance, review and help with policies, implementation of the Act, provided there is quorum that includes at least a balanced representation of three Trainer/Training Organisations representatives to ensure the input is not weighed towards favoring the current established organisations that possible will see the new Act and system as a threat to their current comfortable existence.

## REVIEW and RENEWAL OF APPROVAL

- The Department must review and renew the approval of a trainer and of a training organisation three years after the initial approval is granted and thereafter at intervals of not more than three years.
- Before conducting the review, the Department must send the trainer and the training organisation notice stating the Department is conducting a review of the trainer’s or organisation’s permit

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- If requested, the trainer or organisation must supply documents and information as stated in the notice to the Department, within fourteen days.

## SUBMISSIONS FOR ADVISORY COMMITTEE

- In conducting a review, the Department may ask an advisory committee for a submission about the trainer or institution.
- See above the conditions under which the Advisory Committee will input and report.

## DECISION ON REVIEW/RENEWAL

- In conducting a review/renewal, the Department must have regard to the following;
  - For a trainer;
    - the trainer's qualifications, knowledge and experience in dog obedience and people training;
    - All continuous improvement activity since being accredited
    - the trainer's criminal history (changes since the original application)
    - any constituent or stakeholder feedback that has been received about the trainer (directly sent to the Department)
  - For an organisation;
    - The qualifications, knowledge and experience in obedience and people training of its nominated employees;
    - All continuous improvement activity of every employee since being accredited;
    - The criminal history of each nominated employee trainer (particularly if changed since the original application)
    - Any constituent or stakeholder feedback that has been received about the training organisation or individual trainers within that organisation as is relevant
  - The training methods used or to be used by the trainer or organisation;
  - If a submission is requested, the submission and any other representation about the submission received
  - The Department will request all communications and submissions and copies or required papers will be exchanged electronically only
  - Another matter prescribed under a regulation.
- Also, the Department may wish to cite copy of the following;
  - The trainer's or organisation's membership of a body organisation that promotes standards of positive dog training;
  - Qualifications, knowledge, and/ or experience of the trainer, or for an organisation, its nominated employees, that demonstrates an understanding of the needs of people with a disability;

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- Any continuous improvement that has been achieved by the trainer or the organisation's employee:
    - including and not limited to upgrades in policies / procedures and risk management
    - including any new training or learning that relevant staff have done (continuous personal improvement)
    - Any financial changes / improvements that may have been made over the last accreditation period
    - Other matters the Department considers part of the ongoing improvements
  - The trainer's or organisation's history of compliance with the prescribed requirements related to administration and record keeping
  - Any complaints and accolades made to the Department about the trainer or organisation or nominated trainers of the organisation.
- If after conducting the review, the Department is satisfied the trainer or organisation continues to be suitable for approval; the Department must give the trainer or organisation or any of their nominated trainer employees a notice stating that the review has been completed satisfactorily and issue a renewal permit (with relevant ID cards) for the renewal to apply 3 (three) years from the review date.
  - The Department will conclude the review process and advise all relevant stakeholders within 28 days of renewal date due
  - The Department will ensure an efficient, transparent and fair review process and any objections can be raised with the department within 7 days of the date of the electronic advice given to the renewing party. The Department will review the objections and advise their outcome in writing within 14 days of receiving the objection. The process applied will be like the outline above with transparency and fairness applied at all levels involved with any objections.
  - The Departments acknowledges that the application and renewal process is to ensure that people with disabilities are always protected, without limiting access to vital resources, provided they meet the required standards outlined in the forms.
  - The Department acknowledges that continuity is of primary interest, without it posing additional risk or danger to the stakeholders.

## **TRAINING PROCESSES AND PROCEDURES**

### **DURATION**

As trainers deal with individuals and their individual dogs, there are no compulsory requirements that can cover all stakeholders as handlers and dogs work at different speeds individually and together.

Therefore the Department recommends an industry standard applied by several current training organisations and trainers to ensure depth of knowledge, experience and

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understanding is gained between the handler/dog team to meet the challenges of life as we know it safely and securely, both for themselves and the public at large.

#### Recommended training requirements:

- At least the equivalent of no less than 120 (one hundred twenty) hours training with their dog in obedience and trained together with handler in safe public handling; knowing how to interact and respond to the dog and its needs at all times, ensuring animal welfare and public safety is always applied.
- Some of the 120 hours should be in the public arena, outside – not inside buildings – to familiarise the handler team with the ‘world’ in which they work and live and ensure that handler team is safe and comfortable with no risk to the greater public.
- Dogs are always to be under effective handler control and may not be off leash when training or working.
- Upon satisfactorily completion of the (recommended 120 hours) training the handler should meet the eight criteria for the handler team to be issued with a trainer issued ‘In Training’ coat and ID card for more public work, where the handler team will be exposed to a greater density of people and higher levels of activity around them (see below)
- The trainer will assess the dog / handler team when they are ready to move to this next stage of public training
- Dogs are to be identified as ‘In Training’ and wear a trainer approved and supplied saddle coat, harness or leash with suitable trainer identification
- The handler is to be supplied with a trainer ID Card stating the required minimum details to maximise easy public integration for the handler team (see details below)
- Once coat/ID have been issued, the handler team is to be introduced to working around the public and in public. This will require hands-on trainer involvement and/or pre-scenario training and assessment by video in case the handler team works on the distance with their trainer.
- After enforcing the requirements / etiquette to be applied in public, the handler team can train in public areas, and needs to report back to the trainer (frequently if needed) concerning any issues encountered.
- The total number of hours to practice in high stimulation environments is 25 hours before the handler team could be deemed ‘experienced’ to handle most normal and re-occurring situations
- Training must include areas (as applicable to the handler team’s skills and needs) as listed below:
  - Visit a shopping centre which has no less than:
    - Supermarket of reasonable size
    - Café to practise having the dog under the table on happy mat
    - Some specialty shops (like chemist; clothes shop; bargain buy shop)

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- Bank or Post Office (queuing and meeting at a counter is required to be learned)
  - ATM
  - Pet store
  - Lift \*
  - Travelator \*
  - Escalator \*
- \* OPTIONAL and not compulsory. Must ensure that handler knows how to do this safely under all circumstances and at the speed of the dog; NO pushing the dog to use these facilities under any circumstances.
- Shopping trolleys
  - Parking area, including taxi ramp and/or bus arrival areas
  - Include any areas that are handler specific and add any special training required related to mobility equipment usage in a safe and kind manner reducing any risk of harm to the dog
- The dog MUST be introduced to all these areas at the resilience and recovery level the dog shows and allows. Animal Welfare is crucial as handler teams and trainers are always on show! Work in small increments and always stop at a high!
  - Public transport needs to be trained – locate a terminal where operating staff allow access to train and it should be appreciated rather than denied. This applies to tram / train / bus and airport
  - Depending where handler team trains and works and their requirements, include medical facilities, dental practice, etc. as pertinent
  - Walk past a school, ideally at a time where there are breaks or arrival/departures
  - Training should take place at different locations, times, duration and using different routes, visiting different facilities, keeping the dog guessing, fresh where it learns.
  - Total learning / training recommended at around 145 hours, yet trainers are responsible to deliver training tailored and adjusted to the handler team’s circumstances and therefore the trainer should apply ‘reasonable adjustment’ for the hours of and training done, provided a clear logbook system is maintained (see below)

## QUALIFYING FOR AN ‘In Training’ COAT AND ID

Dogs should be no less than six 6 months old before a coat is issued. This is designed to ensure that the puppy is over their biting and toileting issues. The list of eight criteria below requires that ANY dog in the programme meets as minimum requirements before their trainer issues ‘In Training’ coat and ID card (NB: Coat and card must be issued at the same time)

1. Walk to heel, dog on left-hand side, loose leash (right-hand side is acceptable for people in wheelchairs or having other health requirements)



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2. Dog goes in the sit position on left- or right-hand side
  3. Put the dog in the down/drop
  4. Dog does Sit/Stay on the Happy Mat (part of training equipment), at length of leash for 10 seconds, then name recall dog to side (dog cannot knock anyone over).
  5. Sit/Stay on left-hand side. Get another person with their dog to walk past; once with the person between you and the dogs, then once again going the other way with the other person on the outside and their dog on the inside (behind you). Both times dog cannot break from the sit position.
  6. Put dog in the sit position on left-hand side and stay, then get another person and their dog to walk a circle around clockwise and anticlockwise. The dog must not break from the sit position
  7. The dog must toilet on command whilst on leash, on any surface at any time. A service dog, regardless of sex, must squat to relieve. This should be trained. This is to stop a service dog marking e.g., in a supermarket, public area
  8. All dogs need to be desexed<sup>3</sup>. Proof of desexing is to be supplied at the time of application for the 'in training' coat

Trainer should check that the 8-Point prerequisite is met at a face to face situation. However, in case the 'Handler Trainer' works on the distance, video evidence of these 8 requirements, date stamped to be done in the last seven days prior to sending the video – can be accepted as proof of meeting the minimum coat/ID card requirements.

## REPORTING REQUIRED

Unless the handler team have access to an electronic facility to record their training, it is the trainer's responsibility to supply a training logbook or sheet to record when and where training is done allowing for comments. Trainers are to review logbooks when meeting with handler teams and sign off on entries and adjust training requirements and time according to the results and outcomes.

The training 'logbook' or similar is a requirement from the Department to be maintained. Below is a simple example of training log that can be used for this purpose. The trainer needs to retain proof of this training to meet the required 145 hours total training.

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<sup>3</sup> The issue of full desexing [male and female] and at what age is now left open and medical information should always support the Department's decision. It is proven that early desexing will have a negative effect on the health of the animal and above all the longevity of that animal. This means always reviewing the desexing rule and looking at options [sterilising, vasectomy] to result in better animal welfare and above all a better ROI on any training supplied as the animal will live longer and therefore likely can work longer!

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Example ONLY of easy weekly form, ready for client to use and trainer to supply feedback:

Day	Minutes training	Client comments	Trainer Comments

Trainers should set up their own system which will not have to be submitted to the Department but must be available to submit on request by the Department (in electronic format preferred).

In most states in Australia there are rules about minimum driving hours before a person is considered skilled and experienced enough to pass a driving test. Logbooks have become quite common to support the training at different times, in different weather and different road conditions to enhance driving experiences. The same concept is to apply to the training log and the log should reflect this diversity of training done.

### ID CARDS and COATS

Dogs are to be identified as 'In Training' and wear a trainer approved saddle coat with suitable identification and the handler is to be supplied by the trainer with a trainer ID Card. Handler teams are obliged to have the ID card on them all the time and the dog has to wear the coat when working at any time in public in order to benefit of the public access granted for the team. The DDA92 is specific that the privilege of the dog is granted to the person with the disability to alleviate or help reduce the effect of the disability. Trainers details appear on ID Card and coat – and is the most logical source to call in case of questions / disputes.

#### 'In Training' ID CARD

- The ID card has handler and dog team individual 'passport sized' ID photos
- Handler Name and Dog's Name
- Trainer contact details (minimum mobile phone contact)
- Trainer validity date of the ID Card
- Mention the words 'In Training' clearly visible for the public to see
- IF the dog is less than twelve months old, the card must have a validity of six months only as the dog is still growing and developing and behavioural and facial recognition will be harder
- Other ID cards have a validity of 12 months and should be renewed with new photos and information.

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- Should 'In Training' status be given to a 3-party handler team, it will list the Primary and Secondary (or support) handler's names and ID Photos and each handler will be issued with a card
  - Trainers can withdraw an ID Card or Coat issued if handler teams do not comply with the trainer established rules and regulation and/or proper behaviour as outlined in the DDA92
  - Any ID card should be issued with a similar level coat (see below)

#### PASSING OF PUBLIC ACCESS TEST (PAT):

The Department will consent an 'Accredited Service Dog' status after the handler team has successfully passed an agreed national **NPAT** (Public Access Test) conducted by the team's trainer or assigned trainer applying the Departments' **NPAT** Standards and Forms to conduct the **NPAT**. Further details on the **NPAT** and how to be conducted please see below. The Department requires for this ID Card:

#### ACCREDITED SERVICE DOG ID CARD:

- The ID card has handler and dog ID photos
- Handler Name and Dog's Name (see below)
- Trainer contact details (minimum mobile phone contact)
- Accreditation date and validity of the ID Card
- List 'Accredited Service Dog' clearly visible for the public to see
- List the Accreditation Number issued on the certificate the Department supplies upon passing the **NPAT**
- Department's contact number (1800) and trainer details
- Ensure Accredited ID cards are clearly different from 'In Training' ID
- Should Accreditation status be given to a third-party handler team, it will list the Primary and Secondary (or support) handler's names and ID Photos
- Trainers can withdraw any ID Card or Coat issued if handler teams do not comply with the trainer established rules and regulation and/or proper behaviour as outlined in the DDA92
- It remains the trainer's responsibility to have bi-annual review sessions with the Accredited handler team ensuring they meet or exceed agreed standards of training and behaviour. These review sessions need to be reported electronically to the Department on annual basis (see below for more details)

#### COATS

The trainer is responsible to supply the handler team with a suitable, easy to fit and maintain comfortable dog coat that identifies the trainer/ training organisation that issued the coat.

There are to be TWO levels of coats, in combination with relevant ID Cards.

- 'In Training' Coat and ID Card (see requirements above) clearly showing the trainer's identification (could be a logo / name and contact number etc)

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- 'Accredited' Service Dog coat, clearly showing the trainer's identification (could be a logo / name etc). For ID Cards see above
  - These coats will remain property of the trainer/training organisation and like the ID cards the trainer/training organisation have the right to recall if circumstances justify such as a breach of rules, dog has become aggressive, dog found to be off leash etc.
  - Remember all handler teams are on show and therefore social media and the public at large will view actions by any handler team, correct or incorrect. Some social media interactions can be detrimental to handler and/or trainers' mental health
  - There cannot be any tolerance for people who don't follow the system and handlers need to be fully informed and transparent about the liability associated with any the privilege of wearing a coat [dog] and ID card [handler]
  - The Department would – for obvious reasons – take any public reaction / complaint seriously and may require remedial training and correction, rectification and if needed suspension of handler team and trainer alike
  - Trainers may assist handler teams to reduce external pressure of the public to interact with the working dogs by adding patches and notices that may reduce the disturbance and unsettlement of the handler team, but all additional patches used have to be trainer approved and may not cover the logo/name of the trainer

#### LIABILITY ISSUES / AGREEMENTS:

In any training engagement, the handler team is fully responsible for their dog's behaviour and any possible risks are to be reduced by proper training guidance from appointed trainers/training organisations. The trainer must minimise risk and allow handler teams to train independently ONLY when and after new learning has been affirmed as solid.

The handler team may NOT – at the risk of losing all privileges – try and do things alone unless prior to training and trainer approval was given. This condition is part of any training agreement between the relevant parties.

The Department strongly recommends that a transparent, comprehensive written training agreement is established between parties prior to commencement of any training. This should include anticipated outcomes, duration, means of training, who will do the training, who – if applicable will be a support person – practices training learned to reinforce, and conditions and budget agreed upon.

With parties applying training in different manners, the Department delegates the preparation and execution of training agreements to the trainer/training organisation but if the need arises the Department reserves the right to establish minimum parameters for any agreement so as to protect the person with the disability, the public at large and the trainer/training organisation.

The Department recommends that rules and regulations and responsibilities of all parties are clearly outlined and agreed, and that breach of any regulations will result in voiding the agreement. Cancellation provisions should be included, as are complaint handling procedures, protecting the handler team rights.

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All appointed trainers/training organisations MUST send copies of their renewal of relevant insurances (Certificate of Currency) to the Department in electronic format prior to the anniversary of the equivalent policy submitted at the time of application.

The Department may require access to copies of other licences and business certificates to ensure appointed trainers/training organisations meet their requirements not only at the time of registration but throughout their registration and renewal periods.

Upon request the Department may require access to training agreements and training logs to help make decisions related to any issues raised by either party.

## EVALUATION OF PROGRESS

As indicated before the Department expects the training and evaluation process to go hand in hand and occur frequently (at least every six months after PAT)

If training is not successful even with 'reasonable adjustment', the trainer/training organisation MUST make changes and/or negotiate a revised agreement. Working with another trainer/training organisation is not an excluded option, agreed by both parties.

Evaluation of progress should be an ongoing process – e.g. after every session, so handler team are transparent about progress made. This could be linked with reporting required by the handler team to the trainer about progress they made in the past period.

Evaluation of tasks learned that assist the person in more equality in life are crucial next to the caring, managing and maintaining the dog by exceeding required welfare standards.

The Department leaves 'evaluation and feedback' systems to the trainer/training organisation to adjust to the needs of and the abilities of the handler team. Reporting can be done in an y agreed format and should be traceable. It is the trainer's responsibility to retain file copies in relevant form to be part of the handler teams training file.

In case of dispute or query, the Department may need to access these communications to ensure impartiality and transparency and protection of the disabled person.

If progress is following the Training agreement, the end goal for the trainer engagement may be a PAT (Public Access Test). Those appointed as trainer/assessors conduct this PAT as soon as the trainer considers the handler team meeting or exceeding the PAT requirements.

## NPAT – NATIONAL PUBLIC ACCESS TEST

Most of us are concerned about any test – and whilst this word was selected to identify it as a TEST, it has proven that the word alone creates more stress to people with disabilities. It envisages a schoolroom, make or break test, [or even a driving test] rather than what it is in actuality - a confirmation of skills and etiquettes to maximise the quality of life whilst minimised any impact of the Service Dog on the public at large.

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The **NPAT** should be a confirmation of the handler team’s capabilities, so they can grow and develop their skills and further enhance their quality of life. It is moving on from one path to another, the latter offering greater freedom and responsibility, especially given the fact that handler teams are always on show.

The Department sees the **NPAT** as a start of a new empowerment phase, that comes with relevant responsibilities and setting and maintaining agreed standards of assimilating in the public arena at large with a well-trained and adjusted Service Dog that helps the handler with measurable and tangible tasks to advance in life independently.

The Department requires that there is no more than 7 (seven) working days delay between the passing of the **NPAT** and the certification (issue relevant permit) whilst the department will do all possible to process the **NPAT** paperwork, conforming with the relevant control mechanism established by the Department in less than 21 (twenty one) working days.

The Department will liaise with the trainer/training organisation on outstanding matters re the **NPAT** with the trainer liaising with the end user. The Department requires all materials to be submitted electronically and the trainer to keep electronic (and hard copy) proofs of all **NPAT**’s executed successfully as they form the basis for any renewals of the **NPAT**.

NB: Should handler teams wish to change trainer or find trainers closer by or offering better renewal options, the handler needs to advise the trainer who in turn advises the Department of this request AND forwards the **NPAT** paper of the last **NPAT** to the relevant trainer for support and information and the unless requested by the new trainer can destroy hard copies of files, yet needs to keep electronic copies for no less than 7 years after the first **NPAT** date.

The Department will only show understanding in exceptional cases where delay between **NPAT** and Certification is delayed due to:

- Candidate showing excessively nervous behaviour that produces unacceptable results compared to past training record (otherwise the trainer would not have agreed to set a **NPAT** date)
- Candidate’s dog has been attacked very shortly prior to a planned **NPAT** and produces behaviour that needs rectification and remedial training for the dog to be back to **NPAT** standards. This will only be considered upon proof of previously meeting the **NPAT** standards
- The dog is ill or has an off-day [yes, dogs have off days too!]- underdelivering in the **NPAT** compared to previous training record

The Department will only consider an extension on behalf of the applicant by the trainer who worked with the applicant, indicating the reasons and listing a remedial plan of action to be successfully implemented within a 14- working day period of the date of the advice.

Outside the doubling of the Certification period the handler team will be obliged to redo a **NPAT** when assumed ready.

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## REQUIRED NPAT SUPPORT PAPERS

The Department recommends fine-tuning the current QLD Government PAT test form and required documentation. It will need to seek permission from the QLD government to access the master materials to be modified and rebranded as a National PAT(**NPAT**).

This **NPAT** has obtained quite some support from trainers and processing people alike, whilst delivering a stringent assessment of suitability and proper conditioning of handler teams, the **NPAT** also ensures that:

- Certified (face-on) ID photos of handler, support handler and dog
- Certified ID of handler and support handler
- Medical Certificate by a specialist of the handler
- Written confirmation by handler of contact details and as required written authority for minors and those that are unable to sign for themselves
- Desexing certificate for the dog\*
- Certificate of good health for any dog over 3 years signed off by vet – with the maximum age for a dog to be considered set @ 5 years with relevant VET support letter (all due to the high physical and mental demand on the dog being a Service Dog)

This together with the **NPAT** form (in electronic format) ensures the legitimacy of the accreditation of handler teams allowing them to have a Coat and ID to match their status.

## NEED TO COMMUNICATE NATIONAL PAT (NPAT) TO PUBLIC AND STAKEHOLDERS

The Department is fully aware that ANY new **NPAT** procedures and parameters need to be communicated to all stakeholders, state government departments, the transport industry, incl all airlines, CAA, customs, plus all retail stakeholders like:

- All current training organisations and trainers
- All currently accredited handler teams from all states and by all organisation
- All Hospitals and medical facilities that have relied on state legislation
- All social media organisations, forums and associations affected by this subject
- All disability organisations and carer organisations
- Other stakeholders not included in the above
- A Gazette notice of the new procedure applying when approved and hopefully turned in to Federal legislation
- Use of any suitable electronic platform to advise all relevant contacts in the disability and care industry, suppliers and service providers
- Ongoing electronic marketing, supported by school visit and other educational opportunities

The Department must envisage a six to twelve month roll out and transitional period and will require additional resources to deal with enquiries and requests from trainers/handlers/potential handler, businesses and public at large to ensure a new system is embedded properly and transparently.

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Department needs to consider within that transitional period some grace for all stakeholders to align which can be better facilitated by extensive PR and marketing prior to implementation date.

Businesses now struggle with ‘what is what’ – handlers suffer discrimination due to ignorance, confusion and lack of awareness and knowledge and one of the strong recommendations we suggest to the Department is:

- Lock business awareness (especially food and drink businesses, and include cinemas and fringe businesses) into a compulsory one-day seminar that the senior management/owner need to attend – presenting a short highly practical informative course to cover awareness and legalities
- This could result in a similar arrangement like the responsibilities of the licensee – and they are responsible for dissemination of the relevant information to their staff as part of staff induction. The Department will need to assist with relevant material and courses and
- Charge a small attendance fee for each course attendance ensuring they receive a packet of information to take back to the business and use with their staff and a certification that is paid from this fee
- It would be highly recommended to the Department to cover the costs from allocated government funding and share the ‘attendance fee’ as a ‘donation’ between some of the major charities – therefore involving them in the training course required and to be delivered – which means the Department can stick to their objective and outsource this to some appointed charity organisations. This makes the once that need this to be smooth integration gain the commitment of the industry – and do it in the right manner ensuring no discrimination and focus on animal welfare. A win/win!
- Another option would be to create some course material that can be distributed and viewed easily – and linked to a sign ‘compliance’ list this may offer a great option for country and remote areas to get the same message across within a similar timeframe.

#### ACTUAL NPAT FORM RECOMMENDATION

We have prepared a sample template for the **NPAT** form, which is a combination of input of various PAT’s and forms used by various recognised and non-accredited organisations to make sure that our recommendations are balanced, realistic and accountable – and likely can cover all different categories of types of Service Dogs, but we have had our main focus on Service / Assistance dogs.

For obvious reasons (©, Intellectual Property) the Department will need to clear usage of the information but that is not part of this form.



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### CONCLUSION PART III – NO 3

Documents No 1-4 should secure all stakeholders' commitment to make this project a reality and set National Standards for Australia. The 'World' is looking for solutions, having similar challenges to finding a 'happy and workable' medium to meet stakeholders needs around the world.

Especially now after Australia experienced extensive fires and floods, and now Covid-19, the demand and need for **SD's** will be greater than ever. In order to meet this head-on, a fresh, equitable national approach could offer all seeking help and needing a **Service Dog**, pathways to achieve this and become available under the new **NSDAS**.

The Disability Discrimination Act 1992 was written with the intention to allow those with a genuine need to have a **Service Dog** so as to mitigate or reduce the effects of their disability and ensure them a better quality of life – and a well-deserved better quality of life at that!

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## PART III – NO 4

### DISCUSSION REGARDING SERVICE DOG LEGISLATION

#### HISTORY OF SERVICE DOGS

Dogs are believed to have become part of human history some 12,000 years ago. Whether domestication was a happenstance event or a concerted effort to provide a warning system to human tribes, the result was that dogs soon achieved companion status. (For more on the history of dog domestication, see Professor Rebecca Huss' article entitled, [\*Valuing Man's and Woman's Best Friend: The Moral and Legal Status of Companion Animals\*, 74 Univ. Colo. L. R. 181 \(2003\)](#)). Ancient murals and plaques further suggest that dogs may have been used to assist blind individuals as far back as the first century AD. But the first recognised attempt to truly train dogs to assist blind persons began in the 20th Century following World War I. In Germany, Dr. Gerhard Stalling began training dogs to assist soldiers who were blinded, mainly by poison gas, during the war. In 1916, the effort began in earnest when Dr. Stalling opened the first guide dog school for the blind in Oldenburg. While the school ceased function in 1926, other operations followed in Germany, training dogs for veterans and other blind citizens. (For more on this amazing history of guide dogs, see the International Guide Dog Federation at <http://www.ifgdsb.org.uk/page.asp?code=00010018> ).

An American woman named Dorothy Harrison Eustis, who was abroad in Switzerland training dogs for the military and police, heard about the efforts in Germany and wrote an article about it for the *Saturday Evening Post*. A blind man in the United States read the article, and then contacted Ms. Eustis about setting up a guide dog school in the U.S. After successfully helping this man to train his dog, Ms. Eustis was encouraged to establish her own guide dog school in Switzerland and later in the United States. This effort in the U.S. and abroad led many others to train canine leaders for the blind. (See the International Guide Dog Federation at <http://www.ifgdsb.org.uk/page.asp?code=00010018> ).

#### THE LAWS THAT FOLLOWED

Where guide dogs led, the laws followed not far behind. During the next decades, most states enacted accommodation or equal opportunity laws, which gave vision impaired individuals the right to enter public establishments with their guide dogs. These laws prohibited establishments or common carriers from collecting additional fare for the dogs, and levied fines for such violations. Most significantly, these laws embodied the public policy that blind individuals who use dog guides should be given the same right to access as sighted people.

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Even the terminology soon expanded to reflect the new roles of canines. In later years, the term “seeing-eye dog” gave way to “guide dog,” and finally the all-encompassing “service” or “assistance animal.” This change recognized that dogs were being trained not just to lead the visually impaired, but to also signal sounds for the hearing impaired, retrieve items for those who are physically disabled, and even alert others when the dog’s owner has a seizure. Today, the term “assistance animal” and “service dog” has further expanded to include those animals who, by their very nature, assist individuals to alleviate the effects of their individual impairments.

Most Service Dog legislation occurs at the state level simply because states have been believed to be better suited to determine what type of laws should be enacted to protect their citizens and what enforcement mechanisms should be in place. However, the Disability Discrimination Act enacted in 1992, created a federal cause of action for persons who are subjected to discrimination based on their disabilities. Both state and federal laws prohibit disability discrimination including discrimination based the use of a Service Dog.

This overview will discuss the federal and state laws addressing service dogs and assistance animals.

#### DEFINITION OF SERVICE ANIMAL IN THE FEDERAL ARENA

The federal Disability Discrimination Act does not define “service dog” in its text. Like many federal laws, the terms and applications of the acts are defined in the relevant federal regulations. The federal government works by delegating the duties under most of its statutes to its administrative agencies and departments; these specialised agencies determine what rules and regulations are needed to carry out their functions. These regulations contain the nuts and bolts of federal government functioning.

*The Disability Discrimination Act 1993 definition of an “assistance animal”*

*The Disability Discrimination Act 1992(Cth) (DDA) in Section 9, sets out the legal definition of an assistance animal as a dog or other animal that:*

- (a) is accredited under a State or Territory law to assistance person with a disability to alleviate the effects disability; or*
- (b) is accredited by an animal training organisation prescribed in the regulations; or*
- (c) is trained to assist a person with a disability alleviate the effect of the disability and meet standards of hygiene and behaviour that are appropriate for an animal in public place.*

The definition is purposefully broad and inclusive. The definition reflects this attempt of service dog uses but does not exclude any future applications of the term. Should a conflict arise in its application, a federal court can then determine whether it applies to a specific factual situation. States, on the other hand, usually define their legislative terms by statute.

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## STATE DEFINITIONS OF SERVICE DOGS

States too have volumes of administrative regulations that govern their day to day operations of agencies. But, placing a definition in a statute makes it enforceable by law, whether civil or criminal, and more accessible to the average citizen. Not every state with an accommodation law will define assistance animal or service animal in its text. These states then rely on an administrative regulation or even the ordinary definition of the word accepted by those who use Service Dogs.

The Disability Discrimination Act 1992 (DDA92) and most state legislation expand their definitions to indicate the growing roles of service animals beyond helping the vision and hearing impaired. Second, there is reluctance on the part of many states to include psychiatric impairments in the definition of disabilities for which a dog can provide assistance. This may reflect an overall lack of appreciation for psychiatric disabilities in this country since they are often not necessarily manifested physically. Or, it may instead reflect a legislative concern, valid or not, that people would take advantage of assistance animal laws as means to bring their companion animals with them wherever they go.

## PET DOGS AND SERVICE DOGS: A CRITICAL DISTINCTION

Service Dogs, after all, are working animals and not just companions. States may be concerned that far too many people with psychiatric impairments would request access for service dogs whose main role would be companionship rather than trained identifiable physical tasks and behaviours. A definition by legislation may specifically provide that a service dog is not a companion animal.

A service dog includes a dog that has been specially trained to assist an individual with a disability. The term includes guide dogs that guide individuals who are vision impaired, hearing dogs that alert individuals who are hard of hearing to specific sounds, and service dogs for individuals with disabilities other than vision or hearing impaired. The term does not include a dog that is not trained to mitigate an individual's disability, but the presence of which is to provide for the comfort, protection, or personal defense of an individual.

A companion dog or therapy dog, that provides comfort and is not specifically task trained to alleviate an individual's impairment would be excluded from the provisions of service dog legislation.

While considerable scientific studies have shown the positive effects service dogs have with persons suffering from emotional disabilities, there needs to be distinction between a mere companion animal and a service dog for emotional impairments. Perhaps part of this concern stems from laws that do not require a person using a service dog to declare or demonstrate his or her disability. With medical privacy moving to the forefront of legal concerns, it is unlikely this requirement will change.

In fact, under the Disability Discrimination Act 1992, businesses may ask if the animal is an assistance dog but may not require special ID cards or may not ask about the person's disability. State laws that provide otherwise may conflict with the federal law or may simply

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cover areas that the federal law does not apply. As with many areas of the law, however, the needs and application of service dogs often changes before the law does.

Regardless of the definition of assistance animal under state law, the DDA 1992 prevails as the law of the land and does not limit the activities for which a service animal may be employed.

## WHO QUALIFIES UNDER LAW TO USE A SERVICE DOG?

The definition of service dogs under the Disability Discrimination Act is purposely broad to encompass a broad array of impairments or disabilities. Under the law, individuals with disabilities may be accompanied by an assistance animal in place of public access (i.e. private businesses that serve the public such as restaurants, hotels, stores, etc.) without a requirement to show that the dog has been “certified” or proof of a disability.

In contrast, state laws concerning service dogs are limited to “guide dogs,” or those dogs who assist the visually impaired. This does not mean that only visually impaired individuals can use service dogs in places of public access in those states. Rather, the federal DDA 1992 would apply, and an individual who qualifies as “disabled” under the federal law would be allowed to use his or her service dog.

Notably states changed their definitional section for assistance animals during the nineties to encompass a broader scope of disabilities. “Guide dog” became “assistance animal” to encompass those dogs trained to assist the physically disabled and hearing impaired. There has been a progressive step to define “disability” as either a psychiatric or physical disability in more recent times.

Regardless of how limited or limitless a state defines disability; the result is that the state laws cannot diminish the protection a disabled person has under the federal DDA 1992. The state laws that define both assistance animal and disability are intended to reflect a state’s own commitment to prevent discrimination of disabled citizens. Most importantly, the state laws add layers of protection to certain disabled individuals and to create additional criminal penalties for those actions the federal law does not touch.

### But How Can You Tell?

Again, states may circumscribe the definition of “disabled” for purposes of their state laws. However, this in no way diminishes the protection disabled individuals receive under the DDA 1992. In particular, the DDA 1992 protects individuals who use service dogs from extensive inquiries into the dog’s training or the nature of the disability for which the dog provides assistance.

While a person is not required to explain his or her need for a service dog, a court may require some evidence of training to prevail on a law claim of discrimination. The evidence required needs to be some evidence of individual training that sets the animal apart from the ordinary pet.” For example, an individual needed a service dog to help her with psychiatric conditions. When the individual entered a store, an employee asked her to leave even after she showed him a laminated card as proof of the dog's training. This specialised training was corroborated by a dog trainer about the dog's training and evidence that the dog exhibited its

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training by "circling" around plaintiff while at the store. These factors meet the test as some evidence of individual training to set the service dog apart from the ordinary pet.

The impetus behind a requirement of proof of training is to eliminate an abuse of the system by owners of "ordinary pets." One thing remains clear in all these situations: the DDA 1992 does not require a disabled person to disclose the nature of his or her disability to a business owner. A permissible inquiry starts and ends with the dog's qualifications. The goal of such laws is to make equal access to public places a reality for all individuals. The job of a state is to ensure this access for those who use service dogs by enacting laws.

## STATE LEGISLATION ACCOMMODATIONS

State laws covering service dogs and their handlers address general subjects: discrimination and public access. Areas the legislation fails to cover are intentional interference/harm to a service animal; driving laws; licensing laws for service animals; and wrongful impersonation of a person needing a service animal.

These laws are not consolidated as one code, but rather exist in different areas of law. This is significant because it determines what type of enforcement exists in addition to the penalty one faces for violating the law. Many of the laws affecting service dogs and their owners are civil in nature, meaning that violation does not result in a criminal penalty. That is not to say that a violator does not face repercussions. In fact, the discrimination laws levy fines.

## WHAT IS "EQUAL ACCESS?"

Most states provide by legislation that every visually impaired, hearing impaired, psychiatric or physically disabled person has the right to be accompanied by a service dog in a public place (restaurant, motel, lift, store, walkway, etc.). States go further to provide that such places of public accommodation shall not charge extra fees to an individual who uses a service dog. However, legislation does provide that a service dog be trained to the standard of hygiene and appropriate behaviour. Such legislation attempts to balance the interests of the person needing a service dog with the interests of the public place not expending greater costs for damage caused by the dog. This is a fine line, as business may not collect costs for damages caused by a service dog in advance.

Legislation does two things: it first provides an absolute right to disabled persons to be accompanied by a service dog in places of public access or public transport; however, it then needs to provide some sort of penalty against the owner of the establishment for refusing to let a person enter with a service dog..

Legislature may also provide a specific statute relating to denial of housing or accommodation. These laws may also make a statement about the public policy behind the enactment of these laws that reflects the state's commitment to equal public access under law. The true impact of these laws is not the laudable policy articulated by statute, but the deterrent effect of the remedies available to a person denied access the able-bodied take for granted.

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## DENIAL OF PUBLIC ACCESS – CIVIL VERSUS CRIMINAL PENALTIES

There are two different approaches that different countries make in legislation for breaches of service dog laws. In Australia, the penalties are currently civil unless it becomes a case of animal welfare, then it is covered under laws covering animal management at state and federal level.

In the United States of America, they may either impose a civil fine or make such violations criminal infractions. The implications of such a distinction are obvious; not only does a criminal violation involve the potentiality of prison time, but it also produces a criminal record for the violator. Under the Australian federal law, the penalties are civil nature, and any remedial action would be limited to forcing the violator through a court action to change his or her behavior or recovery of monetary damages. In contrast, where it has been made the violation a penal offense, the police can enforce the statute and the perpetrator faces the full force of the criminal justice system.

Ostensibly, both criminal penalties could be enforced without offending the rule against double jeopardy even where the conduct results from the same events. Each law reflects a different legislative purpose meant to address separate purposes under the law.

In the United States of America, for a person who denies public access to an individual using a service dog, there are huge differences in whether he or she is simply issued a civil fine or ends up in criminal court. Legally, the distinction between a civil and criminal violation rests on the burden of proof for each action. In a civil action, a plaintiff must generally only prove his or her case by a preponderance of evidence – that is, he or she must only show the actor is more than 50% liable. In a criminal action, the burden of proof is beyond a reasonable doubt, which is difficult to quantify in numeric terms. Suffice to say this level of proof is much higher than in a civil case and requires the elements of the crime to be proven without reasonable question to a reasonable person. Moreover, the aggrieved person must also depend on the local prosecutor's office to charge the case and prove intent on the part of the actor. Thus, a person is not required to prove intent on the part of the person who denies rights to a disabled person.

The bottom line is that while a disabled person denied the right to enter a public place may hope for the stigma of criminal prosecution, a civil action is often easier to prove. And, in some states of the USA, it results in a larger fine considering how unlikely jail time would be for a first-time offender.

## WHEN CAN A PLACE OF BUSINESS LEGALLY EXCLUDE A SERVICE DOG?

Under the federal Disability Discrimination Act 1992, a service dog may be excluded or asked to leave if it poses a direct health or safety risk to others or if the animal is out of the owner's control and the owner cannot take effective action to control it. Allergies or fear of animals by a business owner are not valid reasons to exclude an animal under DDA92. Likewise, an animal cannot be excluded due to the very nature of the business, such as a hospital, funeral home, zoo, or park.

States too have attempted to set in place legal limitations on the presence of service dogs. Laws mirror the stipulations seen under the DDA. Clearly, those statutes that allow



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places of public access to remove or exclude a service dog who poses a risk to the health and safety of others would withstand preemption scrutiny.

Of course, there are those public places that do not seem to lend themselves to the presence of service dogs. Some zoos have open range areas that do not keep the animals in the zoo separated from members of the public by a physical barrier. Such zoos are exempt from the laws requiring equal access to disabled individuals using service dogs. A suggestion to help accommodate service dogs so that the handlers are not treated less favourably is to provide adequate kennel facilities to house service dogs while the owner is visiting and must provide either a mode of transportation for a person in a wheelchair to carry the disabled person or a sighted individual to escort a visually impaired person.

Regardless of whether a law provides exceptions under which a service dog can be excluded is silent on that issue, the DDA92's command of public access prevails. Remember though that states can only enforce their own laws and not the provisions of the DDA92. To pursue a claim under the DDA92, one must file a complaint with the appropriate agency or file a lawsuit in federal court. But it should be noted that disability discrimination laws contemplate only the ability to use public places or businesses like able-bodied individuals; these laws do not speak to the issue of safety when using a service dog.

#### HARM TO SERVICE DOGS AND CRIMINAL INTERFERENCE LAWS

In the past decade, the biggest change to state service animal laws in the United States of America has been the enactment of criminal laws prohibiting intentional harm to service dogs. To date, approximately 40 states have laws that make it either a misdemeanor or felony to intentionally, knowingly, or even negligently harm a service dog. (It does not appear that Alabama, Alaska, Iowa, Maryland, Montana, North Dakota, Vermont, West Virginia, or Wisconsin have adopted such laws yet). Many states include harm or interference with service dog provisions under their cruelty chapters while others have them in separate statutes under their penal codes. Arkansas, interestingly, places it under its Disability Rights Law. This difference stems from the fact there are different purposes behind the statutes. Statutes appearing in states' cruelty laws aim to protect this certain class of animals from attack or malicious beatings. The statutes that prohibit other dogs from attacking or injuring dogs may be part of states' dog law schema directed at preventing unrestrained dogs. Finally, discrete laws in the penal code may be aimed at protecting the disabled person and his or her team from harassment and interference.

The recurring theme in nearly each of these statutes is that they provide restitution to the human victim, above and beyond that which could easily be recovered in a civil or criminal suit. This obviates a need to pursue a civil suit even after a successful criminal prosecution. According to one article, the average cost of training a guide dog can range from \$20,000 to \$60,000. (See, Sandra D. Dawson's article entitled, *Protecting a Special Class of Animals: An Examination of and Recommendation for Enacting Dog Guide Protection Statutes*, 37 Conn. L. Rev. 569, 574 (Winter, 2004)). Moreover, the person who depends on a service dog must wait for a new dog to be trained and incur additional expenses in the interim for human assistance. Finally, as Ms. Dawson notes, the emotional impact of losing one's service dog cannot be overstated: "The dog guide does more than assist a person, as a white cane would--the dog guide is a sentient being that replaces a blind person's sense of vision." 37 Conn. L. Rev. 569, 571. The loss of which is often like losing one's vision again.

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Even the language of the statutes reflects a change in attitude toward the important service these dogs provide. Kentucky refers to such a crime as an “assault” on a service dog, like a human victim provision. [KY ST 525.200](#). Nebraska refers to its whole package of interference and harm laws as “Violence on a Service Dog.” The usual distinction in these types of laws is whether the prohibited behaviour involves simple interference with a service dog or some type of injury inflicted upon a service dog. As a result, these statutes fall into three basic categories: (1) interference with a service dog; (2) harm to a service dog by a human; and (3) harm to a service dog by another dog. This approach needs to be considered in Australian federal legislation of service dogs as a deterrent.

## INTERFERENCE WITH A SERVICE DOG

A criminal interference statute might apply when a person commits the offence of interference with a service dog when they intentionally impedes, interferes, or threatens to impede or interfere or (b) attempts to intentionally impede, interfere, or threaten to impede or interfere with a dog that they knows or has reason to believe is a service dog.

A common-sense definition of interference of a service dog may be any action that prevents the service dog from completing its duties or denies the dog and handler free mobility. Interference may be considered as the act of beating, harassing, intimidating, enticing, distracting, obstructing, intimidating, or otherwise jeopardizing the safety of the user or animal.

A common-sense reflection might be, in that, a person can be found to harass a dog if their conduct directed toward a service dog that is knowingly likely to impede or interfere with the service dog's performance of its duties or that places the handler being served or assisted by the dog in danger of injury. A rebuttable presumption of notice in legislation might be included, whereby knowledge is imputed to the actor if the disabled person asked the actor to cease bothering the service dog and the person continued the action.

While the definition of interference may be subject to interpretation, it is explicit in that a dog must be on-duty or in the performance of its duties. For example, it is unlawful for a person to knowingly or intentionally interfere with the actions of a service dog if the dog is engaged in assisting an impaired person. Likewise, it is common sense to make it illegal to maliciously harass a service dog if the dog is being controlled by the person with a disability and is wearing identifiable service dog attire. Generally, laws have a requirement that the dog is "on duty" or with the handler at the time:

Although it is logical to infer that interference can only occur when the service dog is performing its duties, obstruction or hindrance can occur when the service dog is not actively working. For example, if a handler receives threats of harm or interference, that handler may become afraid to venture out; thus, the team has become a victim of "interference."

While one may argue that requiring the dog to be on duty defeats obvious problems of proof at prosecution, it does create yet another legal element the prosecution must prove at court.

Criminal interference with a service dog is almost always a summary offence where the animal is not injured. Notably, interference legislation may illustrate the heightened duty the disabled person has toward the handler of a service dog. As such, a person who acts even knowingly or recklessly faces potential criminal charges just like one who would intentionally

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harass a service dog. When the action involves another dog attacking a service animal, the mental state required is lessened further.

### INJURING A SERVICE DOG BY ANOTHER DOG

It is important to not only classify the intentional interference, harming, or killing of a service dog as animal cruelty but prohibit a person from intentionally or recklessly allowing a dog in his or her custody or control to do so. Thus, under the legislation, if a person was walking his or her dog without a leash in a public area and that dog then attacked a service dog, this could constitute a breach of law. A court could view the act of allowing a dog (especially if the dog had a history of aggression toward other dogs) to roam unrestrained in a public area as “menacing” under the legislation. It is also imperative to consider that it not only makes it a criminal offence to kill or harm a service dog, but also to take control of a service dog with the intent to deprive the owner of the dog.

So why is there so much concern over dogs interfering with service dogs? There is compelling data showing that many disabled people using service dogs have experienced an animal-based attack.

Many service dog teams have or will experience interference of some kind from another dog, and many will be attacked.

According to a recent study, 89% of the respondents reported having fallen victim to interference by a dog and 42% experienced an attack. Of those experiencing interference, almost 51% were interfered with by the same dog more than once, 47% planned alternate routes to avoid known problem dogs, and almost 4% of the service dogs necessitated retirement as a result of the interference. Of those experiencing an attack, 22% were attacked by the same dog more than once, 48% planned alternate routes, and 6% of the service dogs required retirement as a result of the attack.

As difficult as it is for a sighted or able-bodied person to fend off a dog attack, a person who depends on his or her service dog for guidance is even more vulnerable. Many view attacks by dogs and humans differently, perhaps because when a human attacks a service dog, it constitutes a violent, intimate act.

### INJURING A SERVICE DOG BY A PERSON

Laws need to provide little leeway for people who intentionally injure service dogs. This approach reflects in part the recent upgrading in overall cruelty laws for the intentional killing of any animal.

There needs to be provision made for the purposeful injuring or killing of a service dog, without just cause, a criminal offence. A malicious state of mind is not necessarily required; rather, proof of intention suffices for conviction. For instance, it should require that only a showing that a person was negligent in causing injury to a service dog. Animal laws are being amended to make it a nonperson criminal offence with a *mandatory* prison sentence to inflict harm, disability, or death upon animals, this extends to service dogs. If a person causes great bodily harm or death to a companion animal, penalties have been lifted in some countries to maximum fines over \$10,000 and or a prison sentence.

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## STEALING OR WRONGFULLY TAKING A SERVICE DOG

While it is understandable to most that purposely killing a service dog constitutes criminal behaviour, it may be surprising that intentional stealing and wrongful taking of a service dog is criminal behaviour as well. The act of unlawfully obtaining and taking control of a service dog needs to be considered a criminal act as well. Service dogs have value far beyond the traditional market value of a companion dog. As such, these laws recognize that having one's eyes, ears, and mobility and other functions and tasks a service dog performs taken away constitutes a serious offence.

Service dogs have value far beyond the traditional market value of a companion dog

## PENALTIES AND RESTITUTION UNDER HARM AND INTERFERENCE

As noted previously, many states in the United States of America have felony provisions for harm causing injury or death to a service dog. Perhaps the biggest change showing how seriously states now take these acts is that many of these state laws now include some sort of incarceration in addition to fines and restitution. [Kansas' law](#), amended in 2006 makes it a nonperson felony with a sentence of not less than 30 days (and up to one year) and a fine of not less than \$500 (up to \$5000) for inflicting harm, disability or death to a service, police, or assistance animal. During the mandatory 30 days of jail, the perpetrator *must* have a psychological evaluation. [KS ST 21-4318](#). Pennsylvania also mandates a presentence mental evaluation in addition to fines or possible jail time. [PA ST 18 Pa.C.S.A. § 5511\(2.1ii\)](#). Georgia too has a mandatory jail term:

**c) Any person who has received notice that his or her behaviour is interfering with the use of an assistance dog who continues to knowingly and intentionally harass an assistance dog, knowing the dog to be an assistance dog, shall be guilty of a misdemeanour and, upon conviction thereof, shall be punished by imprisonment for not less than 90 days or a fine not to exceed \$500.00, or both, provided that any person who is convicted of a second or subsequent violation of this subsection shall be punished as for a misdemeanour of a high and aggravated nature.**

[GA ST § 16-11-107.1](#). This mandatory jail term also applies if a person knowingly allows his or her dog to harass a service dog. Texas law states that one commits a "state jail felony" if he or she or his or her dog injures a service dog, or a felony of a third-degree if the service dog is killed. [TX PENAL § 42.091\(2\) & \(3\)](#).

Restitution that includes complete compensation for loss of the dog or training of a replacement dog is now standard under most laws in the USA. Of the forty states with statutes, only six or so do not explicitly mention restitution in their criminal harassment statutes (See [Michigan](#) and [Mississippi](#) for examples). Some states are specific in their orders of restitution, while other states are not. Arkansas simply provides that a person who kills or injures any service dog shall make restitution to its owner. [AR ST § 20-14-304](#). While Connecticut only makes the actual offence of a dog injuring a service dog an infraction, it does provide for restitution that includes veterinary care, rehabilitation or replacement, and attorney fees. [CT ST 364b](#). Missouri also adds restitution in addition to the criminal penalties. The person causing harm to the service dog must not only pay the replacement value of the service animal, but also any other expenses incurred, including a temporary

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replacement dog, veterinary fees, court costs, and attorney fees. [MO ST 209.202](#). Nevada law adds that no less than \$750 in punitive damages must be assessed in addition to a civil claim with actual damages. [NV ST 426.820](#).

Several states in the USA also have graduating offence schemes, meaning that subsequent convictions of harassing or harming an assistance animal result in enhanced penalties by statute. Hawaii increases its fine from \$2000 to \$5000 for a second or subsequent conviction, with up to thirty days jail. [HI ST § 711-1109.4](#). Illinois has an enhanced penalty provision for subsequent offences with the first offence comprising a Class A misdemeanour and subsequent violations becoming Class 4 felonies. [510 ILCS 70/4.03](#).

These laws do not provide greater benefits to disabled persons; rather they serve to put people who depend on dogs to navigate their everyday lives in the same position as able-bodied individuals. “A sight-impaired person can travel freely and with little more risk than any other person, so long as the dog guide remains focused on its duties. The dog guide is not a pet out for a walk with its human companion; when the harness is on, the dog guide is at work and needs to be free from interference.” 37 Conn. L. Rev. at 573. Essentially, a heightened duty has been legally created, whether it is when one is walking with his or her dog or driving his or her car.

#### WRONGFUL IMPERSONATION OF A PERSON NEEDING A SERVICE DOG

Several states in the United States of America add further penalties for wrongfully impersonating someone who needs accommodations for a service dog. Missouri, for example, makes this a class C misdemeanour and makes the wrongdoer civilly liable for any damages. Should a person commit this same act again, he or she faces a class B misdemeanour for subsequent violations. [MO ST 209.204](#).

In a similar vein in Colorado, a person faces a class 1 petty misdemeanour for using a blaze orange leash on a non-service dog. Texas also prohibits a person from using a harness or leash the type of which used by a service dog to represent that his or her dog is a service dog. [V. T. C. A., Human Resources Code § 121.006](#).

The intent of these laws is clear: it is at the very least criminal to attempt to gain access and advantage by impersonating someone who relies on service dogs for his or her daily life. USA States are not necessarily providing *benefits* when they enact service dog laws or accommodation laws, but rather are putting someone with a disability in the position of a freely mobile person. One who takes advantage of this gains little sympathy in the eyes of the law.

An example to consider is: A lady was in a lift a couple of years ago with her yellow Labrador service dog, sitting calmly beside her wheelchair. The lift doors opened and in walked a woman holding a purse. In the purse was a toy poodle apricot colour.

The doors closed just as the poodle spotted the service dog. That's when the trouble started. In an instant, the poodle leapt from the arms of the owner, flung himself at the service dog, and clamped his teeth into the bigger dog's snout, leaving the service dog bleeding onto the elevator floor.

As soon as this occurred the woman said the poodle was a service dog. The handler of the Labrador service dog has a severe spinal injury that requires the use of the wheelchair. The

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owner of the apricot toy poodle then said he wasn't a service dog but an "Emotional Support Dog". Finally, she admitted he was a pet she just wanted to bring in the building with her.

Incidents like that one in Reading, Massachusetts, have spurred 19 states in the United States of America to enact laws cracking down on people who try to pass off their dogs as service dogs. The push has been gathering steam in recent years: Virginia implemented its new law in 2016, and Colorado followed suit this year. Massachusetts is now considering a similar proposal.

"Today, any pet owner can go online and buy a vest for a dog to pass it off as a service dog to gain access to restaurants, hotels and places of business," said Republican state Rep. Kimberly Ferguson, who introduced the Massachusetts bill. "Their dogs aren't trained and end up misbehaving in these public places, which gives real service dogs a bad name."

Service dogs, which are trained to perform tasks for a person with a disability, were first used by people with vision and hearing impairments. They are now also used by those who use wheelchairs or have other impairment in mobility, people who are prone to seizures or need to be alerted to medical conditions, like low blood sugar, and people with autism or psychiatric conditions. The American Humane Association, which promotes the welfare and safety of animals, says 20,000 service dogs are working in the USA.

Supporters of the new laws compare those misbehaving dog owners to people who acquire disabled signs so they can park in spaces intended for disabled people. The laws make it a misdemeanour to represent an untrained dog as a service dog and usually come with fines of no more than \$500 for an incident.

***"Today, any pet owner can go online and buy a vest for a dog to pass it off as a service animal to gain access to restaurants, hotels and places of business. Their animals aren't trained and end up misbehaving in these public places, which gives real service dogs a bad name."***

Because there is no certification or official national registry of legitimate service dogs, there is no way to verify whether a dog has undergone rigorous training to become a service dog.

That makes it hard to enforce the laws, said David Favre, a law professor at Michigan State University College of Law and editor of its Animal Legal and Historical Center website, which follows public policy issues related to animals. He said he's not aware of anyone who has been prosecuted anywhere for violating them.

Rather, he said, the laws are largely symbolic and meant to educate dog owners as well as people who let pets into spaces where they don't belong. "Maybe you can scare some people into being honest."

People who pass off their dogs as service animals to take them into shops, restaurants, libraries, sporting events and offices are a real problem, he said, for the proprietors of those establishments, their customers and disabled people who genuinely rely on the help of their service dogs.

"A service animal is trained to be in public and to be under control and non-intrusive and not bark," Favre said. "They are trained not to be a nuisance in any way. You should hardly even know they are there."



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Because of the yellow Labrador's training as a service dog, the Handler said, when the poodle attacked him, "My dog never moved, never retaliated, never barked." He did nothing. That is the way a service dog is trained. They are not going to ever be aggressive. Ever."

### 'FOUR ON THE FLOOR'

The yellow Labrador performs many functions for his Handler. He picks up items she drops, retrieves keys, opens doors, puts objects like library books on counters that the Handler can't reach, and returns change or credit cards to her after purchases. The Handler credits with "enabling me to truly become part of my community."

For a Service dog trained in an organisation kennel facility, they receive up to two years of training, which can cost more than \$40,000. Before they are placed, their new owners are often required to live at the training centre for a week or two to learn about caring and interacting with their dogs. Many training centres provide the dogs free of charge to disabled clients, defraying their costs through fundraising.

The waiting time for a service dog is often two years or longer.

But for people who want to pass off their pet as a service dog, it's easy enough to be convincing. Anyone can go online and purchase for about \$20 the types of vests that legitimate service dogs usually wear.

The vests may help the illegitimate service dogs gain entry, but their behaviour, and that of their owners, often gives them away.

Trained service dogs don't go off-leash, bark, knock things off shelves, jump on people, play or fight with other dogs, or grab food off tables, trainers say.

And owners of bona fide service dogs don't carry them in shopping trolleys or purses. The rule is "four on the floor," with all four feet on the ground except when a dog is performing a task.

The problem is that the proprietors of establishments where people bring their dogs have no way of determining whether a dog is a bona fide service dog.

The federal Disability Discrimination Act 1992 requires all places open to the public, such as businesses, government agencies and entertainment venues, to give access to service dogs and their owners. And venues can ask for a form of "evidence" that the service dog is bona fide. This form of evidence at present is not concrete in what form this may be.

There's another complication: the growing use of "therapy dogs or companion dogs" which are intended to provide comfort to those with anxiety or other emotional problems. Some of them may have received special training, although nothing as rigorous as the training for service dogs. (Emotional support dogs are not covered under the DDA92 and can legally be denied access.)

Some service dog owners say many businesses, unable to tell illegitimate service dogs from real ones, allow all of them in. Many owners of service dogs avoid those places for fear of

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exposing their animals to danger from untrained dogs. Other businesses, they say, simply bar all dogs from the premises, even if it breaches the DDA.

Disability rights advocates, which advocate on behalf of people with disabilities, are sympathetic to those who want to crack down on pet owners who misrepresent their dogs as service dogs. Some advocates and human rights lawyers agree that the laws should aim to educate, rather than punish, and the penalties for breaches should be minimal. “We want to have a positive impact on people to help them realize that what they’ve done has this very negative effect.”

The laws should launch a national effort to teach people not to put dogs in situations they are not trained for — and to educate the public on the need for legitimately trained service dogs.

The long-term goal is the creation of a national accreditation scheme and certification program including a registry for legitimately trained service dogs. This is the beginning of a much larger conversation we need to have.

#### EXEMPTION FROM LOCAL COUNCIL REGISTRATION FEES

Just as public access is a right, not a benefit, many may argue the same of local council registrations for service dogs. Service dogs are recognised as a necessary tool like a wheelchair or other assistive technology to help disabled individuals lead a normal life. As such, states often either reduce or eliminate traditional dog registration fees. A person with a disability should be exempt from any state or local registration fees or charges that might otherwise apply in connection with owning a service dog.

Regardless of the complexity of legislation the intent is to reduce or eliminate the fees a disabled person pays for the dog that allows him or her to have the mobility an able-bodied person takes for granted. Again, the purpose of all the service dog laws is to put those who rely on these well-trained dogs in a position equal to those who do not provide canine assistance.

### CONCLUSION PART III NO. 4

While disability discrimination laws for service dogs have been around for some time, only recently have begun to be recognized the training, cost, and trust invested in these animals by adding protections against interference and harm. As the need for these animals expands beyond the traditional roles of guide and hearing dogs, the laws are apt to change as well, perhaps protecting those with disabilities less apparent to the general population.

This document has shown the need for a national, equitable, accreditation system that allows disabled people with genuine medical reasons to benefit from these unique animals and allow – with the help of a traceable system to allow for online verification, set themselves apart from those that are abusing the system.

Until then, awareness and education are the only way to truly provide a world of equal access for all, both able-bodied and disabled. The awareness and education need to begin as soon as a national accreditation scheme and relevant law reform takes place.



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The key points to this discussion in conclusion are:

A national accreditation system will offer equality and inclusion and raise standards

It weeds out abusers of the system as they are found out

National accreditation is the standard that ensures professionalism, safety and unobtrusive behaviour, with which the public safety is enhanced

Respect for the 'working dogs' is imperative and should be underpinned by relevant legal protection, with wide implications for abusers as outlined above

Education will be more successful when a National System is available as all will be clear for all stakeholders, no more second guessing, walking on ice to not offend or discriminate.

With the expected growth in the usage of these great dogs, it is NOW we need to act to make resolve these issues