

Federal Assistance

ANIMAL LAW



AS A COMMON LAW COUNTRY, AUSTRALIA MUST RELY ON BOTH LEGISLATION (STATUTE) AS WELL AS CASE LAW TO INFORM ASSISTANCE ANIMAL PUBLIC ACCESS RIGHTS. IT IS LEGISLATION, HOWEVER, THAT EMBEDS AN INTERNATIONAL TREATY INTO AUSTRALIAN DOMESTIC LAW. FOR AN ANIMAL TO MEET THE AUSTRALIAN REQUIREMENTS OF AN ASSISTANCE ANIMAL, THEY MUST MEET 3 CRITERIA.



Criteria 1

The handler must have a disability that meets the definition of disability provided in Part 4 of the *Disability Discrimination Act 1992 (Cth)*.

Criteria 2

An Assistance Animal is recognised as an animal which meets the requirements set forth by Section 9(2) of the *Disability Discrimination Act 1992 (Cth)*.

The States of Queensland (Qld), South Australia (SA), Western Australia (WA) and the Australian Capital Territory (ACT) offer accreditation schemes which are recognised under Section 9(2)(a) of the *Disability Discrimination Act 1992 (Cth)*. However, Section 109 of the Australian Constitution states that where State and Commonwealth law differ, Federal law takes precedence.



Alternatively, an Assistance Animal must meet the requirements set out by Section 9(2)(c) of the Disability Discrimination Act 1992 (Cth). This is most easily achieved through completing a Public Access Test (PAT) undertaken by a qualified, experienced and accredited animal trainer. A PAT should be completed every year.

To date, the Australian government has not developed a set of Regulations to accompany the Disability Discrimination Act 1992 (Cth). Therefore, there are no prescribed animal training organisations. This means that no animal can be recognised under Section 9(2)(b) of the Disability Discrimination Act 1992 (Cth).



Criteria 3

An Assistance Animal must be trained in at least one task to alleviate the handler's disability as per common law case *Ondrich v Kookaburra Park Eco Village* [2009] FMCA 260.

Once an Assistance Animal meets the three criteria above, they are entitled to public access rights. This means that the animal may accompany their handler in public places that traditionally prohibit animals. Assistance Animals may not enter the following public areas:

- Quarantine facility (e.g. working farm)
- Sterile surgical suite (e.g. operating theater)
- Food preparation area (e.g. kitchen in a restaurant)
- Other hazardous areas (e.g. rollercoaster)

Section 54A of the Disability Discrimination Act 1992 (Cth) outlines other lawful instances where an Assistance Animal can be denied entry to public places:

- If the Assistance Animal does not remain under the control of the handler, or a nominated secondary handler on their behalf. This does not mean that the Assistance Animal must be under physical control on a lead.
- If there is a reasonable suspicion that the Assistance Animal has an infectious disease or threatens the health of humans or other animals.
- The handler is unable or unwilling to provide evidence that the animal is an Assistance Animal and meets the standards of hygiene and behaviour that are appropriate for an animal in a public place.

It is essential to remember that Assistance Animals are not always dogs. Assistance Animals may include parrots, cats, horses and any other species who meet the definition provided under Section 9(2) of the Disability Discrimination Act 1992 (Cth).

Furthermore, handlers remain liable for any damage to property caused by an Assistance Animal.



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