

‘Assistance animals’ and the law

This Factsheet is for general information purposes and is not legal advice. It provides a brief overview only of this area of the law. If you require legal advice relating to your particular circumstances you should contact the ADO or another solicitor.

What is an ‘assistance animal’?

Assistance animals are highly trained animals who assist people with certain physical and medical conditions.

‘Assistance animals’ are different from ‘companion animals’. A companion animal is a pet—beloved Fido the dog or Fluffy the cat or Fifi the rabbit. An assistance animal is an animal who has been specifically trained to help their keeper with a medical or physical condition that the keeper has.



Under Australian law¹, an assistance animal is an animal who is **accredited** under the laws of a State or Territory, or by a recognised animal training organisation. Alternatively, an assistance animal can also just be an animal who is **trained**:

- to assist a person with a disability to alleviate the effect of the disability; and
- to meet standards of hygiene and behaviour appropriate for an animal in a public place.

Does an assistance animal have to be a dog?

Australian law does not specify which animals can be assistance animals. The most common assistance animal is a dog, because they are the easiest to train. In theory other animals such as cats could be assistance animals, but they would have to be trained to assist a specific person for a specific disability and be able to be controlled in public.

Does it matter who provides the training?

In 2015 the Full Federal Court of Australia held that it doesn’t matter what organisation or person has trained an assistance animal, as long as the animal has received the relevant training.² An animal will qualify as an assistance animal if the animal is trained to assist a person with a disability, and to meet standards of hygiene and behaviour appropriate for an animal in public.

Can my own dog be trained as an assistance animal?

Some training organisations allow you to choose your assistance dog and help you train your dog.³ Other organisations recruit rescued dogs from shelters.⁴ Other training organisations get their dogs from breeders.⁵

¹ *Disability Discrimination Act 1992* (Cth) s 9(2).

² *Mulligan v Virgin Australia Airlines Pty Ltd* [2015] FCCA 130, [65].

³ <http://minddog.org.au/>.

⁴ <http://www.awaredogs.org.au/>.

⁵ <http://www.assisteddogs.org.au/>.

Are people with assistance animals protected by discrimination laws?

In general, under Australian law it is unlawful to discriminate, directly or indirectly, against a person who has a 'disability'.⁶ It is also unlawful to discriminate against a person who has an assistance animal to help the person with that disability.⁷

In the ACT, a person with an assistance animal has the same rights to enter and use a public place as a person who is not accompanied by an assistance animal.⁸ A person with an assistance animal must not be excluded or removed from a public place, without reasonable excuse.⁹

It is also unlawful to charge higher fees to a person purely because they are accompanied by an assistance animal. The kinds of excess charges that should not be imposed include charges for accommodation, goods or services provided to or for the person with the assistance animal, and any charges for access to a public place. The only exception to this is if the charge is reasonable in the circumstances.¹⁰

Can I have an assistance animal in rental or other managed accommodation?

It is unlawful to discriminate against a person with an assistance animal in relation to accommodation.¹¹ This means:

- your application for accommodation can't be refused,
- you can't be put lower down a list of applicants for accommodation,
- you can't be evicted from accommodation,

just because you have an assistance animal.

Travelling on aircraft with assistance animals

General restrictions apply to having a live animal on an aircraft. There are specific exemptions applying to dogs accompanying visually or hearing impaired people, but not to assistance animals in general.¹² You should contact the flight company to check if your assistance animal will be allowed to board with you.

DISCLAIMER

While all care has been taken in preparing the information on this fact sheet, it is not a substitute for legal advice. For any specific questions we recommend you seek legal advice. The Animal Defenders Office accepts no responsibility for any loss or damage suffered by people relying on the information on this fact sheet.



⁶ *Disability Discrimination Act 1992* (Cth) ss 5, 6.

⁷ *Ibid* s 8(1), and *Discrimination Act 1991* (ACT) s 5AA(2)(d)(iii).

⁸ *Domestic Animals Act 2000* (ACT) s 104(1). Under NSW law, there are very similar laws protecting those with assistance animals. See *Companion Animals Act 1998* (NSW), Pt 6.

⁹ *Domestic Animals Act 2000* (ACT) s 105(2).

¹⁰ *Ibid* ss 106(1) and (2).

¹¹ *Disability Discrimination Act 1992* (Cth) s 25; *Discrimination Act 1991* (ACT) s 21. In NSW the *Strata Schemes Management Act 2015* was changed in late 2016 so that assistance animals can't be banned from strata properties (s 139(5)). This brought NSW strata laws into line with anti-discrimination laws.

¹² *Civil Aviation Regulations 1988* (Cth), regs 256A(1) and (2).