

*These notes refer to the Animal Welfare (Service Animals) Act (Northern Ireland) 2022 (c.9) which received Royal Assent on 30 March 2022*

# Animal Welfare (Service Animals) Act (Northern Ireland) 2022

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes relate to the Animal Welfare (Service Animals) Act (Northern Ireland) 2022 ('the Act') which received Royal Assent on 30 March 2022. They have been prepared by the Department of Agriculture, Environment and Rural Affairs ('the Department') in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. The Act provides for increased protection for service animals in Northern Ireland. In doing so, it aims to ensure that these animals are afforded the same level of protection as they are already provided with in other parts of the United Kingdom.
4. [Section 4\(1\)](#) of the Welfare of Animals Act (Northern Ireland) 2011 ('the 2011 Act') provides that it is an offence to cause unnecessary suffering to an animal in Northern Ireland. In deciding whether the suffering caused to an animal is unnecessary, the 2011 Act provides that there are a number of factors which can be considered. Those factors include whether the suffering was caused for the purpose of protecting a person, property or another animal. The Act provides that, as is the case in other parts of the United Kingdom, whether someone causing harm to a service dog was for the purpose of protecting a person, property or another animal is not a relevant factor when considering whether or not the harm was unnecessary.

### **OVERVIEW**

5. The Act contains two sections. It amends the 2011 Act to provide enhanced protection to service animals in Northern Ireland.

## **COMMENTARY ON SECTIONS**

### ***Section 1: Amendment of the 2011 Act***

Section 4(1) of the 2011 Act provides that it is an offence to cause unnecessary suffering to an animal. In deciding whether the suffering caused to an animal is unnecessary, section 4(3) of that Act provides that there are a number of factors which can be considered. This includes whether the suffering was for the legitimate purpose of protecting a person, property or another animal - section 4(3)(c)(ii).

Section 1 of the Act inserts a new section 51A into the 2011 Act which in effect provides that section 4(3)(c)(ii) cannot be relied upon by the defendant if:

- (a) the animal to which suffering was caused was under the control of a relevant officer at the time of the conduct that caused the suffering to the animal;
- (b) the animal was being used by the officer at that time in the course of the officer's duties in a way that was reasonable in all the circumstances; and
- (c) the defendant accused of causing the animal suffering is someone apart from the officer.

The new section sets out who a 'relevant officer' is, which in turn determines what a service animal is (as this is an animal used by such an officer). A 'relevant officer' is specified as a constable, a person who is employed for police purposes or is engaged to provide services for police purposes or a prison custody officer within the meaning of Chapter 3 of Part 8 of the Criminal Justice and Public Order Act 1994. The term 'constable' here is as defined in section 43A of the Interpretation Act (Northern Ireland) 1954 (the 1954 Act), and this includes certain persons in addition to Police Service of Northern Ireland officers. This brings in the Harbour or Airport Police and the Ministry of Defence Police, but members of the Naval, Military or Royal Air Force Police are excluded in the new section. The definition in section 43A of the 1954 Act also brings into the new section persons who have the powers of constables, and prison officers notably fall within this description.

The section provides the Department with the power to make regulations to amend the definition of 'relevant officer'. It expressly provides, however, that only a person in the public service of the Crown may be specified in the definition.

### ***Section 2: Commencement and short title***

This section provides that the Act will come into operation on the day after Royal Assent. The section also specifies the short title of the Act is the Animal Welfare (Service Animals) Act (Northern Ireland) 2022.

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## **HANSARD REPORTS**

6. The following table sets out the dates of the Hansard reports for each stage of the Act's passage through the Assembly and the date Royal Assent was received.

<i>STAGE</i>	<i>DATE</i>
First Stage	15 November 2021
Second Stage	30 November 2021
Consideration Stage	8 December 2021
Further Consideration Stage	17 January 2022
Final Stage	24 January 2022
Royal Assent	30 March 2022