

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

EXPLANATORY NOTES

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.

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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.