

2024 No. 70

DOGS

**The Dangerous Dogs (Compensation and Exemption Schemes)
(Scotland) Order 2024**

Made - - - - - *28th February 2024*
Laid before the Scottish Parliament *1st March 2024*
Coming into force - - - *1st April 2024*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 1(3), (5) and (6) of the Dangerous Dogs Act 1991(a) and all other powers enabling them to do so.

PART 1

Preliminary

Citation, commencement and extent

1.—(1) This Order may be cited as the Dangerous Dogs (Compensation and Exemption Schemes) (Scotland) Order 2024 and comes into force on 1 April 2024.

(2) This Order extends to Scotland only.

Interpretation

2. In this Order—

“the Act” means the Dangerous Dogs Act 1991,

“the appointed day” means 31 July 2024,

“dog” means a dog of the type known as the XL Bully.

PART 2

Compensation scheme

Application for compensation

3.—(1) A person who owns a dog and who makes arrangements before the appointed day for the dog to be euthanised by a veterinary surgeon may apply to the Scottish Ministers for payment of the sums specified in paragraph (3).

(a) 1991 c. 65. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

- (2) An application under paragraph (1) must—
- (a) contain such particulars, be in such form and be accompanied by such evidence as the Scottish Ministers may reasonably require, and
 - (b) be made on or before 30 September 2024.

(3) If, on receipt of an application under paragraph (1), the Scottish Ministers are satisfied that the application and any accompanying evidence meet the requirements in paragraph (2), the Scottish Ministers must arrange for the following sums to be paid to the applicant—

- (a) where the applicant is a natural person or a licensed person—
 - (i) £100 in respect of the dog, and
 - (ii) £100 in respect of the cost of euthanising the dog,
- (b) Otherwise, £100 in respect of the cost of euthanising the dog.

(4) In this article—

“licensed person”, in relation to a dog identified in an application under paragraph (1), means a legal person who, immediately prior to the euthanasia of the dog, held a licence under—

- (a) the Pet Animals Act 1951(a),
- (b) the Breeding of Dogs Act 1973(b),
- (c) the Licensing of Animal Dealers (Young Cats and Young Dogs) (Scotland) Regulations 2009(c),
- (d) the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021(d), in respect of an activity described in Part 1 or 4 of schedule 1 of those Regulations (licensable activities),

“veterinary surgeon” means a person registered in the register of veterinary surgeons or the supplementary veterinary register kept under the Veterinary Surgeons Act 1966(e).

PART 3

Exemption schemes

Interpretation of this Part

4. In this Part—

“certificate of exemption” means a certificate issued under article 6 or any replacement or new certificate issued under article 11(5) or article 12(1),

“holder”, in relation to a certificate of exemption, includes a natural person who has inherited the dog to which the certificate relates following the death of the original holder,

“original holder” means the holder named in a certificate of exemption,

“rehoming organisation” means an organisation—

- (a) whose purposes are, or include—
 - (i) the provision of care to dogs that have been abandoned or relinquished by their previous owners, and
 - (ii) the rehoming of dogs taken into the organisation’s care, and

(a) 1951 c. 35 (14 & 15 Geo. 6). This Act was repealed by the Animal Health and Welfare (Scotland) Act 2006 (asp 11) schedule 2 paragraph 9(d), subject to savings contained in S.S.I. 2020/464.

(b) 1973 c. 60. This Act was repealed by the Animal Health and Welfare (Scotland) Act 2006 (asp 11) schedule 2 paragraph 9(k), subject to savings contained in S.S.I. 2020/464.

(c) S.S.I. 2009/141. These Regulations were revoked subject to savings by S.S.I. 2021/84.

(d) S.S.I. 2021/84.

(e) 1966 c. 36. Section 2(2) (register of veterinary surgeons) was amended by S.I. 2003/2919, S.I. 2008/1824 and S.I. 2019/454.

- (b) which was carrying on the activities described in paragraph (a)(i) and (ii) on 23 February 2024.

Exemption from the prohibition in section 1(3) of the Act

5.—(1) The prohibition in section 1(3) of the Act does not apply to a dog if paragraph (2), (3) or (4) applies.

(2) This paragraph applies if—

- (a) the Scottish Ministers have issued a certificate of exemption in respect of the dog, and
- (b) the certificate remains valid.

(3) This paragraph applies if—

- (a) an application for a certificate of exemption has been made, and the fee relating to that application has been paid, at or before the relevant time (see article 6(6) or (8)(a)) in respect of the dog, and
- (b) the applicant has not received notification of the determination of the application.

(4) This paragraph applies if—

- (a) an application for a certificate of exemption was made, and the fee relating to that application was paid, at or before the relevant time in respect of the dog,
- (b) the applicant received notification of the refusal of the application on or after 17 July 2024, and
- (c) the applicant received notification of the refusal of the application within the previous 14 days.

(5) For the purposes of paragraphs (3)(b) and (4)(b) and (c), the applicant is presumed to have received notification of the determination of an application no later than 5 days after the date on which that notification was sent.

(6) A certificate of exemption ceases to be valid under paragraph (2)(b) on—

- (a) the failure to comply with any condition attached to the certificate of exemption,
- (b) the date specified in a notice of withdrawal issued by the Scottish Ministers under article 12(2),
- (c) where the original holder of the certificate has died—
 - (i) the date on which a certificate of exemption is issued following an application under article 6(8) in respect of the same dog,
 - (ii) the date on which an application under article 6(8) made at or before the relevant time (see article 6(8)(a)) in respect of that dog is refused by the Scottish Ministers, or
 - (iii) where no such application is made at or before the relevant time, the date which is three months after the original holder's date of death.

Application for a certificate of exemption

6.—(1) A natural person may apply for a certificate of exemption in respect of a dog if the person is aged 16 or older and owns the dog.

(2) A rehoming organisation may apply for a certificate of exemption in respect of a dog if it owns the dog and—

- (a) the dog was taken into its care before 23 February 2024, or
- (b) the dog is a puppy born before the appointed day to a female dog which was in the care of the rehoming organisation at the time of its birth, having been taken into the care of the rehoming organisation before 23 February 2024.

(3) An application for a certificate of exemption must contain such particulars, be in such form and be accompanied by such evidence as the Scottish Ministers may reasonably require.

(4) A person applying for a certificate of exemption must pay the Scottish Ministers a fee of £92.40.

(5) On receipt of an application for a certificate of exemption, the Scottish Ministers must grant the application and issue a certificate of exemption in respect of the dog to which the application relates if—

- (a) except where the court has made an order in respect of the dog under section 4A(1) or 4B(3)(a) of the Act (contingent destruction orders and destruction orders otherwise than on a conviction), the application for the certificate is made at or before the relevant time,
- (b) the Scottish Ministers are satisfied that the application meets the requirements referred to in paragraph (3),
- (c) the application fee referred to in paragraph (4) has been paid to the Scottish Ministers, and
- (d) except where the court has made an order referred to in sub-paragraph (a) in respect of the dog, the application fee has been paid to the Scottish Ministers at or before the relevant time.

(6) For the purposes of paragraph (5) and unless paragraph (7) applies, an application is made, and the application fee in relation to that application is paid, at or before the relevant time if—

- (a) in the case of an application sent by post, the application and the application fee are received by the Scottish Ministers on or before 15 July 2024,
- (b) in the case of an application that is submitted electronically, the application and the application fee are submitted on or before the appointed day.

(7) This paragraph applies where a certificate of exemption has been issued to an original holder who has died.

(8) Where paragraph (7) applies, a natural person who has inherited the dog in respect of which the certificate of exemption referred to in that paragraph was issued may apply for a certificate of exemption in respect of that dog naming the applicant as the original holder, and such an application—

- (a) is made, and the application fee in relation to that application is paid (both for the purposes of paragraph (5)), at or before the relevant time if they are received by or submitted to the Scottish Ministers before the date which is three months after the date of death of the original holder referred to in paragraph (7),
- (b) must meet the requirements in paragraphs (1), (3) and (4).

Certificate of exemption

7. A certificate of exemption must—

- (a) contain a unique number or a unique combination of letters and figures,
- (b) contain information to identify the original holder and the dog to which the certificate applies and, in the case of a holder which is a rehoming organisation, the premises at which the dog is living,
- (c) where the holder of the certificate is a natural person, include conditions requiring the holder—
 - (i) to keep the dog at the same address as the holder except for any 30 days in any 12 month period,
 - (ii) to notify the Scottish Ministers of any proposed change of the address at which the dog is kept (other than in respect of any changes of address in the 30 days referred to in sub-paragraph (i)),
 - (iii) to notify the Scottish Ministers of the death or export of the dog,

(a) Sections 4A and 4B were inserted by the Dangerous Dogs Amendment Act 1997 (c. 53) sections 2 and 3(1).

- (iv) to satisfy the Scottish Ministers that a policy of third-party insurance compliant with article 8 is in force,
 - (v) to keep the dog muzzled and on a lead when in a public place,
 - (vi) to keep the dog in sufficiently secure conditions to prevent its escape,
 - (vii) to provide access to the dog for the purposes of reading a microchip on request by a person specified in section 5(1) of the Act,
 - (viii) to produce to a person specified in section 5(1) of the Act confirmation that a policy of third-party insurance compliant with article 8 is in force within five days of being requested to do so by that person,
 - (ix) to produce to a person specified in section 5(1) of the Act the certificate of exemption within five days of being requested to do so by that person,
 - (x) to satisfy the Scottish Ministers that the requirement in article 9 has been met in respect of the dog, and
 - (xi) where applicable, to satisfy the Scottish Ministers that the requirements in article 10 have been met in respect of the dog,
- (d) where the holder of the certificate is a rehoming organisation, include conditions requiring the holder—
- (i) to ensure that the dog lives in the premises specified in the certificate at all times, except where it is relocated from those premises to other premises in the event of a fire or other emergency,
 - (ii) where, in the event of a fire or other emergency, the dog is relocated from the premises specified in the certificate to other premises, to notify the Scottish Ministers in writing of the change of premises and the address of the premises to which the dog has been relocated,
 - (iii) to ensure that a sufficient number of staff are present daily at the premises where the dog is living to provide for the care and management of the dogs being kept at those premises,
 - (iv) to comply with paragraph (c)(iii) to (xi).

Third-party insurance

8.—(1) A person who, or a rehoming organisation which, applies for a certificate of exemption must have in place a policy of insurance in respect of the dog identified in the application which comes into effect no later than—

- (a) 1 August 2024, or
- (b) where the court has made an order referred to in article 6(5)(a) in respect of the dog, the date of the application,

and which complies with paragraph (3).

(2) The holder of a certificate of exemption must have in place a policy of insurance in respect of the dog identified in the certificate which complies with paragraph (3) and is—

- (a) renewed annually throughout the lifetime of the dog, or
- (b) replaced whenever necessary to ensure continuous cover throughout the lifetime of the dog with a new policy which complies with that paragraph.

(3) Subject to paragraph (4), a policy of insurance for the purposes of paragraph (1) or (2) must insure the applicant for or holder of the certificate of exemption in respect of the death of, or bodily injury to, any person caused by the dog.

(4) A policy of insurance under this article—

- (a) may contain terms, conditions, limitations and exclusions subject to which the policy is issued, and
- (b) need not provide insurance in respect of the death of, or bodily injury to—

- (i) a member of the policyholder’s family who resides permanently with the policyholder, or
- (ii) a person in respect of whom the policyholder is required to maintain a policy of insurance by virtue of the Employers’ Liability (Compulsory Insurance) Act 1969^(a).

Neutering

9.—(1) The holder of a certificate of exemption must, on or before the relevant date, provide the Scottish Ministers with such evidence as the Scottish Ministers may reasonably require that the dog in respect of which the certificate has been issued has been neutered.

(2) In paragraph (1)—

“neutered” means—

- (a) in the case of a male dog, castrated, and
- (b) in the case of a female dog, spayed,

“relevant date” means—

- (a) in relation to a dog that was at least 18 months old on the appointed day, 31 January 2025,
- (b) in relation to a dog that was less than 18 months old on the appointed day, either—
 - (i) 31 January 2025 or
 - (ii) the date which is one month after it reaches the age of 18 months,whichever is the later,
- (c) where the court has made an order referred to in article 6(5)(a) in respect of the dog, the date which is one month after—
 - (i) the date on which the certificate of exemption is issued, or
 - (ii) the date on which the dog reaches the age of 18 months,whichever is the later.

Microchipping

10.—(1) This article applies where—

- (a) a certificate of exemption has been issued in respect of a dog, and
- (b) at the time that the application for a certificate of exemption was made under article 6 (“the time of application”), the dog was not implanted with a microchip because at that time the dog was less than eight weeks old or unfit to be microchipped.

(2) Where the dog was not implanted with a microchip because it was less than eight weeks old at the time of application, the holder of the certificate of exemption must, on or before 31 October 2024, provide the Scottish Ministers with such evidence as the Scottish Ministers may reasonably require to confirm that the dog has been implanted with a microchip.

(3) Where the dog was not implanted with a microchip at the time of application because it was unfit to be microchipped at the time, the holder of a certificate of exemption must provide the Scottish Ministers with the following evidence on or before 31 October 2024—

- (a) such evidence as the Scottish Ministers may reasonably require to ascertain the date on which it will become fit to be microchipped, or
- (b) such evidence as the Scottish Ministers may reasonably require to confirm that the dog has been implanted with a microchip.

(4) Where evidence is provided in accordance with paragraph (3)(a), the holder of the certificate of exemption must provide the Scottish Ministers with such evidence as the Scottish Ministers

(a) 1969 c. 57.

may reasonably require to confirm that the dog has been implanted with a microchip before the end of the period of 28 days beginning with the day on which the dog first became fit to be microchipped.

(5) For the purposes of this article, a dog is only unfit to be microchipped if a certificate has been issued in respect of the dog under regulation 6(2) of the Microchipping of Dogs (Scotland) Regulations 2016^(a).

Rehoming organisations- change of premises

11.—(1) This article applies where a rehoming organisation which is the holder of a certificate of exemption proposes to relocate the dog to which the certificate relates from the premises referred to in the certificate to other premises occupied by the holder for any reason other than an emergency.

(2) The rehoming organisation may apply to the Scottish Ministers to vary the certificate of exemption.

(3) An application under paragraph (2) must contain such particulars, be in such form and be accompanied by such evidence as the Scottish Ministers may reasonably require.

(4) On receipt of an application under paragraph (2), the Scottish Ministers may vary the certificate of exemption if satisfied that the dog to which the certificate relates will continue to be owned and cared for by the rehoming organisation.

(5) When the Scottish Ministers approve the variation of a certificate of exemption, the Scottish Ministers must issue a replacement certificate.

Further provision about certificates of exemption

12.—(1) The Scottish Ministers may issue a new certificate of exemption to replace an existing certificate of exemption that was issued in respect of a dog where—

- (a) the holder of the existing certificate—
 - (i) notifies the Scottish Ministers in writing of a change in the holder's name, address or contact details on the existing certificate, and
 - (ii) provides the Scottish Ministers with such evidence as the Scottish Ministers may reasonably require in relation to the change or
- (b) evidence has been provided to confirm that the dog has been implanted with a microchip in accordance with article 10.

(2) The Scottish Ministers may by notice in writing withdraw a certificate of exemption if the holder has requested that the Scottish Ministers withdraw the certificate.

(3) The holder of a certificate of exemption who makes a request for the withdrawal of the certificate under paragraph (2) must make the request in such form as the Scottish Ministers may reasonably require.

Amendment of the Dangerous Dogs Compensation and Exemption Schemes Order 1991

13.—(1) The Dangerous Dogs Compensation and Exemption Schemes Order 1991^(b) is amended as follows.

(2) After article 1(2) insert—

“(3) In this Order, references to dogs do not include references to dogs of the type known as the XL Bully.”.

(a) S.S.I. 2016/58.

(b) S.I. 1991/1744. Article 7(1) was amended by S.I. 1991/2297. Article 10(2) was amended by S.I. 1991/2297 and S.I. 1991/2636.

(3) In article 7(1) (neutering and identification), omit from the second occurrence of “and” to the end.

(4) In article 10(2) (certificate of exemption), omit sub-paragraphs (h) and (i).

SIOBHIAN BROWN

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
28th February 2024

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in respect of dogs of the type known as the XL Bully. The type of dog known as the XL Bully (“the XL Bully Breed type”) is designated for the purposes of section 1 of the Dangerous Dogs Act 1991 (“the 1991 Act”) by article 2 of the Dangerous Dogs (Designated Types) (Scotland) Order 2024. Article 3 of that Order further provides that the day appointed under section 1(3) in respect of dogs of the XL Bully Breed type is 31 July 2024. This means that the possession or custody of a dog of the XL Bully Breed type will be prohibited after this date.

Part 2 of this Order establishes a compensation scheme in respect of dogs of the XL Bully Breed type where arrangements are made before 31 July 2024 for such dogs to be euthanised. Article 3(1) provides that a person who owns a dog of the XL Bully Breed type and makes arrangements before that date for the dog to be euthanised may apply to the Scottish Ministers for compensation. Article 3(3) provides that, if the Scottish Ministers are satisfied that such an application has been duly made, the Scottish Ministers must arrange for the payment of the specified amount to the applicant.

Part 3 establishes an exemption scheme under which owners of dogs of the XL Bully Breed type may apply for an exemption from the prohibition in section 1(3) that will apply in respect of the possession of dogs of the XL Bully Breed type on or after 1 August 2024 (“the section 1(3) prohibition”).

Article 5 makes provision for an exemption from the section 1(3) prohibition where the Scottish Ministers have issued a certificate of exemption in respect of the dog and the certificate remains valid. It also makes provision for an exemption to apply where an application for a certificate has been made timeously and is still pending, and for a “grace period” of 14 days following notification of refusal of an application, to allow time for the owner to have the dog euthanised. This will apply only where notification is received on or after 17 July 2024, as it may then be impossible to arrange for the dog to be euthanised before 1 August. Where the holder of a certificate of exemption dies, the certificate of exemption remains valid for a limited period as provided for by article 5(6)(c), so long as the conditions of exemption are adhered to. A natural person who inherits the dog may make a new application for a certificate of exemption in their own name in accordance with article 6(8).

Article 6 makes provision in relation to applications for a certificate of exemption and specifies who may apply for a certificate and the fee for an application (£92.40). An application for exemption must be made by no later than 31 July 2024, other than for postal applications (where the deadline is 15 July 2024) and for applications under article 6(8), where the application must be made within three months of the death. There is no time limit for applications which are made following a court order under section 4A(1) or 4B(3) of the 1991 Act (contingent destruction orders and destruction orders otherwise than on conviction). Article 7 specifies what must be included in a certificate of exemption and the conditions that the holder must comply with for the certificate to remain valid. Certain requirements will apply throughout the lifetime of the dog. The requirements relating to neutering and microchipping (where applicable) in articles 9 and 10 must be met by the dates specified in those articles.

Article 11 makes provision for the situation where the holder of a certificate of exemption is a rehoming organisation which wishes to relocate the dog from the premises at which it was previously kept to other premises occupied by the organisation. The Scottish Ministers are empowered to vary the certificate of exemption in these circumstances.

Article 12 makes provision for replacement certificates to be issued in certain circumstances and also provides for the withdrawal of a certificate of exemption on the request of the holder.

Article 13 amends the Dangerous Dogs Compensation and Exemption Schemes Order 1991 to specify that it does not apply to dogs of the XL Bully Breed type and removes an existing requirement for permanent tattooing (in addition to microchipping) of other designated types of dog.

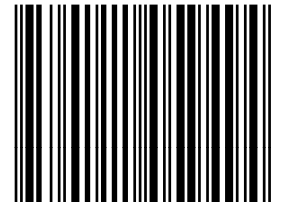
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