



2011 CHAPTER 23

PART 5

DOGS

*Dog control orders*

**Power to make dog control orders**

**40.**—(1) A district council may in accordance with this Part make an order providing for an offence or offences relating to the control of dogs in respect of any land in its district to which this Part applies.

(2) An order under subsection (1) shall be known as a “dog control order”.

(3) For the purposes of this Part an offence relates to the control of dogs if it relates to one of the following matters—

- (a) fouling of land by dogs and the removal of dog faeces;
- (b) the keeping of dogs on leads;
- (c) the exclusion of dogs from land;
- (d) the number of dogs which a person may take on to any land.

(4) An offence provided for in a dog control order must be an offence which is prescribed for the purposes of this section by regulations made by the Department.

(5) Regulations under subsection (4) may in particular—

- (a) specify all or part of the wording to be used in a dog control order for the purpose of providing for any offence;

- (b) permit a dog control order to specify the times at which, or periods during which, an offence is to apply;
  - (c) provide for an offence to be defined by reference to failure to comply with the directions of a person of a description specified in the regulations.
- (6) A dog control order may specify the land in respect of which it applies specifically or by description.
- (7) A dog control order may be revoked or amended by the council which made it; but this Part applies in relation to any amendment of a dog control order as if it were the making of a new order.

#### **Dog control orders: supplementary**

**41.—**(1) The Department shall by regulations prescribe the penalties, or maximum penalties, which may be provided for in a dog control order in relation to any offence.

(2) Regulations under subsection (1) may not in any case permit a dog control order to provide for a penalty other than a fine not exceeding level 3 on the standard scale in relation to any offence.

(3) The Department shall by regulations prescribe such other requirements relating to the content and form of a dog control order as the Department thinks fit.

(4) The Department shall by regulations prescribe the procedure to be followed by a district council before and after making a dog control order.

(5) Regulations under subsection (4) shall in particular include provision as to—

- (a) consultation to be undertaken before a dog control order is made;
- (b) the publicising of a dog control order after it has been made.

#### **Land to which this Part applies**

**42.—**(1) Subject to this section, this Part applies to any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment).

(2) For the purposes of this section, any land which is covered is to be treated as land which is “open to the air” if it is open to the air on at least one side.

(3) The Department may by order designate land as land to which this Part does not apply (generally or for such purposes as may be specified in the order).

(4) Land may be designated under subsection (3) specifically or by description.

(5) Where a private Act confers powers on a person other than a district council for the regulation of any land, that person may, by notice in writing

given to the district council in whose district the land is situated, exclude the application of this Part to that land.

*Fixed penalty notices*

**Fixed penalty notices for contravention of dog control order**

**43.—**(1) This section applies where on any occasion an authorised officer of a district council has reason to believe that a person has committed an offence under a dog control order made by that council.

(2) The authorised officer may give that person a notice offering that person the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.

(3) A fixed penalty payable under this section is payable to the district council whose officer gave the notice.

(4) Where a person is given a notice under this section in respect of an offence—

- (a) no proceedings may be instituted for that offence before the expiration of the period of 14 days following the date of the notice; and
- (b) that person may not be convicted of that offence if that person pays the fixed penalty before the expiration of that period.

(5) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(6) A notice under this section must also state—

- (a) the period during which, by virtue of subsection (4), proceedings will not be taken for the offence;
- (b) the amount of the fixed penalty; and
- (c) the person to whom and the address at which the fixed penalty may be paid.

(7) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (6) (c) at the address so mentioned.

(8) Where a letter is sent in accordance with subsection (7) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(9) The form of a notice under this section is to be such as the Department may by order prescribe.

(10) In any proceedings a certificate which—

- (a) purports to be signed on behalf of the clerk of the council, and

- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(11) In this section “authorised officer”, in relation to a district council, means—

- (a) an employee of the district council who is authorised in writing by the council for the purpose of giving notices under this section;
- (b) any person who, in pursuance of arrangements made with the council, has the function of giving such notices and is authorised in writing by the council to perform that function; and
- (c) any employee of such a person who is authorised in writing by the council for the purpose of giving such notices.

#### **Amount of fixed penalties**

**44.—(1)** The amount of a fixed penalty payable to a district council in pursuance of a notice under section 43 in respect of an offence under a dog control order—

- (a) is the amount specified by the district council which made the order;
- (b) if no amount is so specified, is £75.

(2) A district council may under subsection (1)(a) specify different amounts in relation to different offences.

(3) A district council may make provision for treating a fixed penalty payable to that council in pursuance of a notice under section 43 as having been paid if a lesser amount is paid before the end of a period specified by the council.

(4) The Department may by regulations make provision in connection with the powers conferred on district councils under subsections (1)(a) and (3).

(5) Regulations under subsection (4) may (in particular)—

- (a) require an amount specified under subsection (1)(a) to fall within a range prescribed in the regulations;
- (b) restrict the extent to which, and the circumstances in which, a district council can make provision under subsection (3).

(6) The Department may by order substitute a different amount for the amount for the time being specified in subsection (1)(b).

#### **Power to require name and address**

**45.—(1)** If an authorised officer of a district council proposes to give a person a notice under section 43, the officer may require the person to give the officer that person’s name and address.

(2) A person who—

- (a) fails to give that person's name and address when required to do so under subsection (1), or
- (b) gives a false or inaccurate name or address in response to a requirement under that subsection,

commits an offence.

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) In this section “authorised officer” has the same meaning as in section 43.

### *Supplementary*

#### **Byelaws**

**46.—**(1) Where, apart from this subsection, a district council has at any time power to make a byelaw in relation to any matter specified in any of paragraphs (a) to (d) of section 40(3) as respects any land, it may not make such a byelaw if at that time it has power under this Part to make a dog control order as respects that land in relation to the matter specified in that paragraph.

(2) Subsection (1) does not affect any byelaw which the district council had power to make at the time it was made.

(3) Where a dog control order is made in relation to any matter specified in any of paragraphs (a) to (d) of section 40(3) as respects any land, any byelaw previously made by a district council which has the effect of making a person guilty of any offence in relation to the matter specified in that paragraph as respects that land shall cease to have that effect.

(4) Where any act or omission would, apart from this subsection, constitute an offence under a dog control order and any byelaw, the act or omission shall not constitute an offence under the byelaw.

#### **Power of district councils to obtain information**

**47.—**(1) Subject to subsection (2), a district council may serve on any person a notice requiring that person to supply to the council, within a period or at times specified in the notice and in a form so specified, any information so specified which the council reasonably considers that it needs for the purposes of any function conferred on the council by this Part.

(2) Regulations may restrict the information which may be required under subsection (1) and determine the form in which the information is to be so required.

(3) A person who—

- (a) fails without reasonable excuse to comply with the requirements of a notice served under this section, or
  - (b) in supplying any information in compliance with such a notice, makes any statement which that person knows to be false in a material particular or recklessly makes any statement which is false in a material particular,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.