

These notes refer to the Dogs (Amendment) Act (Northern Ireland) 2011 (c.9) which received Royal Assent on 8 March 2011

Dogs (Amendment) Act (Northern Ireland) 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Dog Licences

Section 1 of the Act (Exemptions) extends the exemption from the requirement to have a dog licence from guide dogs to all assistance dogs, defined as dogs kept and used by a disabled person wholly or mainly for the purpose of assisting that person to carry out normal day-to-day activities.

Section 2 of the Act (Microchipping) introduces a requirement to have a dog implanted with a microchip before any licence or transfer certificate is issued and empowers the Department of Agriculture and Rural Development to make subordinate legislation regulating a system of compulsory microchipping.

Section 3 of the Act (Licensing of dangerous dogs) provides that a district council may licence a dog of a type prohibited by the Dogs Order only if that dog has been exempted from the prohibition in Article 25A(3) of the Dogs Order.

Section 4 of the Act (Fees) amends the Dogs Order to provide for an increase in the fee payable for a dog licence and for certain concessionary rates. It provides for an increase in the fee payable for a block licence (that is, a licence held in respect of three or more dogs kept for breeding, sporting, show or other specified purposes.) It also empowers the Department, with the consent of the Department of Finance and Personnel, to make subordinate legislation amending the level of fee payable.

Control of dogs

Section 5 of the Act (Contingent destruction orders where no prosecution) amends the Dogs Order to provide that, where no person is to be prosecuted for an offence under the Order in respect of a dog seized under Article 25C(1) (a) (that is, a dog of a prohibited type) that dog may be exempted from the prohibition (under strict conditions) provided that a district judge (magistrates court) is satisfied that the dog will not be a danger to the public.

Section 6 of the Act (Attacks on livestock and certain other animals) amends the Dogs Order to make it an offence to set a dog on or urge it to attack an animal

(other than livestock) owned by another person, and to make it an offence to keep a dog which attacks and injures an animal (other than livestock).

Section 6 of the Act also extends the defence contained in the Dogs Order, whereby a person shall not be guilty of an offence if that person's dog attacks another person or livestock trespassing on that person's land, to also cover the situation where an animal owned by another person (other than livestock) is attacked by a person's dog while trespassing on that person's land.

Section 7 of the Act (Attacks on persons) amends the Dogs Order to provide that an attack on a person that results in injury shall be considered an aggravated offence, whether it happens in a public or a private place. It also amends the Dogs Order to increase the maximum penalty for setting a dog on or urging it to attack a person to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale or to both.

Section 8 of the Act (Control conditions on dog licences) inserts a new Article 30A into the Dogs Order, which enables district council dog wardens to attach certain control conditions to the licence of a dog where the officer has reason to believe that an offence under the Dogs Order has been committed in respect of that dog.

A new Article 30B provides that the potential control conditions available to a dog warden under this section are that the dog concerned should be:

- securely fitted with a muzzle when in public;
- kept under control when in public;
- when not under control, be kept securely confined;
- be kept from any specified place;
- if male, be neutered; or
- with the keeper, attend and complete a specified course of training.

A new Article 30C provides for appeal to a Magistrate's Court against the imposition of any control conditions and a new Article 30D for the right of an owner to request a review by the district council of any control condition.

A new Article 30E applies where the keeper of a dog whose licence is subject to control conditions gives or sells the dog to another person, and requires the original keeper not to part with possession of the dog unless he has notified his district council of the intended transfer of ownership of the dog and the name and address of the new keeper.

Failure to comply with this requirement will be an offence liable on summary conviction to a fine not exceeding level 4 on the standard scale.

The new Article 30 also requires a district council receiving notice of the transfer of ownership of a dog whose licence is subject to control conditions to inform the new owner of that fact and give that new owner any advice it considers

appropriate; and, where the new owner resides in the district of another council, to inform that other council of the transfer of the dog into its district.

A new Article 30F provides that a breach of any control condition shall be an offence punishable by a fine not exceeding level 4 on the standard scale.

Section 9 of the Act (Contingent destruction orders on conviction) amends the Dogs Order to provide that, where a person has been convicted of an offence under Article 25A of the Order (that is, breeding or breeding from, selling or exchanging or giving as a gift or having possession of a dog of a prohibited type) and the court is satisfied that the dog concerned will not be a danger to the public, the dog may be exempted under strict conditions.

Fixed penalties

Section 11 of the Act (Fixed penalty offences) provides that failure to notify a district council of the transfer of ownership of a dog subject to control conditions, or to observe any control condition, may attract a fixed penalty.

Section 12 of the Act (Payment of fixed penalty to district council) provides that fixed penalties shall be paid to the district council whose officer issued the fixed penalty notice.

Section 13 of the Act (Use of fixed penalty receipts of district council) requires district councils to use the receipts from fixed penalties under the Dogs Order only for the enforcement of that Order.

Section 14 of the Act (Amount of fixed penalty) provides for councils to set the level of fixed penalties for certain offences (within limits) with a default level of £75 where a council chooses not to set its own level. It also provides for councils to make provision for a discount for early payment of a fixed penalty.

Section 15 (Assembly control of orders made by the Department) provides that orders under Article 7(6), 8(4), 23(7)(b), 25(2)(f), 25(4), 25B(1), 28(3)(b), 29(5)(b), 33(3)(c), 35(2), 38(6) or 46 of the Dogs Order shall not be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.