



## 2011 CHAPTER 9

### *Control of dogs*

#### **Contingent destruction orders where no prosecution**

**5.—(1)** Article 25C of the Dogs Order (seizure of dangerous dogs) is amended as follows.

(2) In paragraph (3) for sub-paragraphs (a) and (b) substitute “the district judge (magistrates’ court) may order the destruction of the dog and shall do so unless satisfied that the dog will not be a danger to the public.”.

(3) After paragraph (3) insert—

“(4) If—

- (a) the dog is one to which Article 25A applies,
- (b) the district judge (magistrates’ court) does not order the destruction of the dog under paragraph (3), and
- (c) the dog is subject to the prohibition in Article 25A(3),

the district judge (magistrates’ court) shall order that, unless the dog is exempted from the prohibition in Article 25A(3) within the period of two months beginning with the date of the order, the dog shall be destroyed.”.

#### **Setting on or urging dog to attack**

**6.** For Article 28 of the Dogs Order (setting on or urging dog to attack) substitute—

#### **“Attacks on livestock and certain other animals**

**28.—(1)** Any person who sets a dog on—

- (a) any livestock, or
- (b) any other animal owned by another person,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) If a dog—

- (a) worries livestock, or
- (b) attacks and injures any other animal owned by another person,

the keeper of the dog and, if it is in the charge of a person other than its keeper, that person is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) This Article does not apply to a dog while being used—

- (a) for police purposes;
- (b) for such other purposes as the Department may by order specify.

(4) A person is not guilty of an offence under this Article by reason of anything done by the dog if at the material time—

- (a) the livestock or other animal is trespassing on any land; and
- (b) the dog is—
  - (i) kept by, or in the charge of, the occupier of that land; or
  - (ii) in the charge of a person authorised by the occupier to remove the livestock or other animal from that land.

(5) The keeper of a dog shall not be convicted of an offence under paragraph (2) if he shows that at the material time the dog was in the charge of some other person whom he reasonably believed to be a fit and proper person to be in charge of the dog.”

### **Attacks on persons**

7. For Article 29 of the Dogs Order (attacks on persons and worrying livestock) substitute—

#### **“Attacks on persons**

**29.—**(1) Any person who sets a dog on any other person is guilty of an offence or, if the dog injures the person attacked, an aggravated offence under this paragraph.

(2) If a dog attacks any person, then—

- (a) the keeper of the dog; and
- (b) if it is in the charge of a person other than its keeper, that person,

is guilty of an offence or, if the dog injures the person attacked, an aggravated offence under this paragraph.

(3) A person guilty of an offence under paragraph (1) or (2) other than an aggravated offence is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale or to both.

(4) A person guilty of an aggravated offence under paragraph (1) or (2) is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(5) This Article does not apply to a dog while being used—

- (a) for police purposes;
- (b) for such other purposes as the Department may by order specify.

(6) A person is not guilty of an offence under this Article if at the material time—

- (a) the person set on or attacked is trespassing on land; and
- (b) the dog is—
  - (i) kept by, or in the charge of, the occupier of that land; or
  - (ii) in the charge of a person authorised by the occupier to remove that person from that land.

(7) The keeper of a dog shall not be convicted of an offence under paragraph (2) if he shows that at the material time the dog was in the charge of some other person whom he reasonably believed to be a fit and proper person to be in charge of the dog.”.

### **Control conditions on dog licences**

**8.** After Article 30 of the Dogs Order insert—

*“Control conditions on dog licences*

#### **Grounds for imposition of control conditions**

**30A.**—(1) This Article applies where an officer has reasonable cause to believe that an offence has been committed in respect of a dog under—

- (a) Article 22(1) (dog straying);
- (b) Article 25(3) (control of dogs on certain roads or lands);

(c) Article 28(1) or (2) (dog attacking livestock or certain other animals); or

(d) Article 29(1) or (2) (dog attacking person).

(2) The officer may serve on the keeper of the dog a notice in writing imposing one or more of the conditions specified in Article 30B (“control conditions”) on any dog licence held by that person in respect of that dog.

(3) It is immaterial for the purposes of paragraph (2) whether the dog licence was in force at the time the offence mentioned in paragraph (1) was committed.

(4) A notice under this Article must inform the keeper of the dog—

(a) of the grounds on which the notice is being served;

(b) of the right to appeal under Article 30C and the time within which such an appeal must be brought;

(c) of the right to apply under Article 30D for a review of the conditions imposed by the notice and the effect of paragraph (2) of that Article;

(d) of the effect of Articles 30E and 30F.

(5) The service of a notice under this Article in respect of any offence mentioned in paragraph (1) does not affect—

(a) the liability of any person to be convicted of that offence; or

(b) any power of an officer to give a notice under Article 36 in respect of that offence.

(6) A notice under this Article takes effect on the date of service of the notice.

(7) Subject to Articles 30C and 30D, at any time after a notice served on the keeper of a dog takes effect, any dog licence held by the keeper in respect of the dog has effect subject to the control conditions specified in the notice.

(8) In its application to the service of notices under this Article, section 24 of the Interpretation Act (Northern Ireland) 1954 has effect with the omission of the word “registering” in subsection (1).

### **Control conditions**

**30B.**—(1) The control conditions which may be imposed on a dog licence by a notice under Article 30A are—

(a) that the dog be securely fitted with a muzzle sufficient to prevent the dog biting any person when in a public place;

(b) that the dog be kept under control when in a public place;

- (c) that the dog (when not under control) be kept securely confined in a building, yard or other enclosure;
- (d) that the dog be excluded from any place, or any type of place, specified in the notice;
- (e) that the dog (if male) be neutered before the end of the period of 30 days from the date on which the notice takes effect;
- (f) that the keeper, with the dog, attend and complete a specified course of training in the control of dogs before the end of the period of 6 months from the date on which the notice takes effect.

(2) In paragraph (1)(f) “specified” means specified, or of a description specified, in the notice under Article 30A.

### **Appeal against imposition of control conditions**

**30C.**—(1) A person aggrieved by a notice served on him under Article 30A may, by notice under Part 7 of the Magistrates’ Courts (Northern Ireland) Order 1981, appeal to a court of summary jurisdiction.

(2) An appeal under this Article must be brought within the period of 30 days beginning with the day on which the notice was served.

(3) On an appeal under this Article, the court may—

- (a) cancel the notice;
- (b) confirm the notice without modification; or
- (c) confirm the notice with such modifications of the control conditions specified in the notice as the court thinks fit.

(4) The power to modify control conditions on an appeal includes power to remove or amend the conditions or to substitute new conditions for existing conditions.

(5) The decision of the court on an appeal under this Article is final.

(6) Where an appeal is brought under this Article against a notice—

- (a) any control condition imposed by the notice by virtue of Article 30B(1)(e) or (f) has effect as if for the reference to the date on which the notice takes effect there were substituted reference to the date on which the appeal is determined or abandoned; and
- (b) the court may on the application of the appellant suspend the effect of any other control condition imposed by the notice pending a decision on the appeal.

### **Review of control conditions**

**30D.**—(1) At any time after a notice under Article 30A has taken effect in relation to a dog licence, the holder of the licence may apply to the council

for the district in which he resides to review the control conditions imposed by the notice.

(2) But no application may be made under this Article in the period of—

- (a) 6 months from the date on which the notice takes effect; or
- (b) 12 months from the date on which the decision on an earlier review under this Article was notified to the licence holder in accordance with paragraph (3).

(3) On a review under this Article the council may—

- (a) cancel the notice;
- (b) confirm the notice without modification; or
- (c) confirm the notice with such modifications of the control conditions specified in the notice as the council thinks fit;

and shall notify the licence holder in writing of its decision.

(4) The power to modify control conditions on a review includes power to remove or amend the conditions or to substitute new conditions for existing conditions; but any modification made to control conditions must be such that (taken as a whole) the conditions are not more onerous after the review than before it.

(5) A person aggrieved by the decision of the council on a review under this Article may, by notice under Part 7 of the Magistrates' Courts (Northern Ireland) Order 1981, appeal to a court of summary jurisdiction.

(6) An appeal under this Article must be brought within the period of 30 days beginning with the day on which notice of the decision was served in accordance with paragraph (3).

(7) On an appeal under this Article, the court may—

- (a) confirm the decision of the council;
- (b) cancel the notice; or
- (c) make any modification to the control conditions specified in the notice which the council could have made on the review.

(8) The decision of the court on an appeal under this Article is final.

(9) If a control condition imposed by virtue of section 30B(1)(e) or (f) is complied with to the satisfaction of the council, the council shall—

- (a) remove the condition from the notice served under Article 30A; or
- (b) (if there are no other control conditions imposed by the notice) cancel the notice,

and shall notify the license holder in writing of that fact.

### **Transfer of dogs subject to control conditions**

**30E.**—(1) This Article applies where the keeper of a dog (“the old keeper”) gives or sells to another person (“the new keeper”) a dog kept under a dog licence which is subject to control conditions.

(2) The old keeper must not part with possession of the dog unless he has served on the council for the district in which he resides notice—

- (a) of the intended transfer of ownership of the dog; and
- (b) of the name and address of the new keeper.

(3) A person who fails to comply with paragraph (2) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) A council which receives a notice under this Article shall—

- (a) inform the new keeper of the control conditions imposed on the licence under which the dog was kept by the old keeper and the grounds on which those conditions were imposed; and
- (b) give such advice to the new keeper in relation to the control of the dog as the council thinks appropriate.

(5) If the new keeper resides in the district of another council, the council must also inform that other council of the matters mentioned in paragraph (4)(a).

### **Contravention of control condition**

**30F.**—(1) If any control condition of a dog licence is contravened, the keeper of the dog is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) It is a defence for a person charged with an offence under this Article to show that he had taken all reasonable steps to prevent contravention of the control condition.”.

### **Contingent destruction orders on conviction**

**9.**—(1) Article 33 of the Dogs Order (power of court to order destruction of dogs) is amended as follows.

(2) After paragraph (1A) insert—

“(1B) If—

- (a) the dog is one to which Article 25A applies,
- (b) the court does not order the destruction of the dog under paragraph (1A), and
- (c) the dog is subject to the prohibition in Article 25A(3),

the court shall order that, unless the dog is exempted from the prohibition in Article 25A(3) within the period of two months beginning with the date of the order, the dog shall be destroyed.”.

**Entry onto land to prevent or end attack by dog on another dog**

- 10.** In Article 42(1) of the Dogs Order (power of entry “or  
(c) preventing a dog attacking any other animal owned by a person other than the owner of the dog or ending any such attack;”.