

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7: Dangerous Dogs

Section 106: Keeping dogs under proper control

239. This section amends the Dangerous Dogs Act 1991 (“the 1991 Act”).
240. *Subsection (2)(a)(i)* amends section 3 of the 1991 Act so as to extend the current offence of having a dog that is dangerously out of control in a public place, or a private place where the dog is not permitted to be, to all places including private property.
241. *Subsection (2)(b)*, which inserts new subsections (1A) and (1B) into section 3 of the 1991 Act, creates an exemption for “householder cases”. These are cases where a dog becomes dangerously out of control when a trespasser is inside, or is in the process of entering, a building that is a place where a person lives. It does not matter whether the person actually was a trespasser; if the owner is in the building when the dog becomes out of control and believes that the person is a trespasser, that is sufficient. “Trespasser” takes its common law meaning, as someone trespassing against the occupier of the land. Whether a building is a “dwelling” is a question of fact that will be determined by the court in each case.
242. The provisions of section 76(8B) to (8F) of the Criminal Justice and Immigration Act 2008, as inserted by section 43 of the Crime and Courts Act 2013, define the meaning of a “householder case” where a court is considering whether the level of force used by a defendant who claims to have acted in self-defence was reasonable in the circumstances as he or she believed them to be. Section 76(8B) ensures that people who live in buildings which serve a dual purpose as a place of residence and a place of work (for example, a shopkeeper and his or her family who live above the shop) can rely on the defence regardless of which part of the building they were in when they were confronted by an intruder, providing that there is internal means of access between the two parts of the building. Section 76(8C) creates a similar provision for the armed forces whose living or sleeping accommodation may be in the building they work in and where there is internal access between the two parts.
243. *Subsection (2)(c)* repeals section 3(3) of the 1991 Act which differentiates between private places where the dog has a right to be and private places where the dog does not have a right to be. This provision is no longer required as all places, regardless of whether they are public or private, will now be covered by the offence. *Subsections (2)(d)(i) and (ii), (3) and (4)* make other amendments to the 1991 Act consequential upon the repeal of section 3(3).
244. *Subsection (5)* extends the rights of enforcement officers (for example, a local authority dog warden) to seize dogs from both public and private places if it appears to such an officer that the dog is dangerously out of control.

*These notes refer to the Anti-Social Behaviour, Crime and Policing
Act 2014 (c.12) which received Royal Assent on 13 March 2014*

245. *Subsections (6) and (2)(a)(ii)* together make it an offence under section 3 for a dog to be dangerously out of control when there are grounds for reasonable apprehension that it will injure any assistance dog, whether or not it actually does so. Where an out-of-control dog injures an assistance dog, an aggravated offence will be committed under section 3, thereby attaching the high maximum penalty for an aggravated offence provided for in section 3(4) (as to which see the following paragraph). Subsection (6) applies the definition of an assistance dog in section 173(1) of the Equality Act 2010, that is, a dog which has been trained to provide assistance to a deaf or blind person or certain other specified categories of person with a disability.
246. *Subsections (2)(d)(iii) and (2)(e)* increase the maximum penalty for an aggravated offence under section 3 (currently 2 years imprisonment) to 14 years if a person dies as a result of being injured; 5 years in other cases where a person is injured; and 3 years where an assistance dog is killed or injured.