

Dogs (Amendment) Bill

[AS AMENDED AT CONSIDERATION STAGE]

LEGISLATIVE COMPETENCE

At Introduction the Minister of Agriculture and Rural Development had made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Dogs (Amendment) Bill would be within the legislative competence of the Northern Ireland Assembly.”

Dogs (Amendment) Bill

[AS AMENDED AT CONSIDERATION STAGE]

CONTENTS

Dog licences

1. Exemptions
2. Microchipping
3. Licensing of dangerous dogs
4. Fees

Control of dogs

5. Contingent destruction orders where no prosecution
6. Setting on or urging dog to attack
7. Attacks on persons
8. Control conditions on dog licences
9. Contingent destruction orders on conviction
10. Entry onto land to prevent or end attack by dog on another dog

Fixed penalties

11. Fixed penalty offences
12. Payment of fixed penalty to council
13. Use of fixed penalty receipts of council
14. Amount of fixed penalty
15. Assembly control of orders made by Department

Supplementary

16. Interpretation
17. Minor and consequential amendments and repeals
18. Commencement
19. Short title

SCHEDULES:

- | | |
|------------|------------------------------------|
| Schedule 1 | Minor and consequential amendments |
| Schedule 2 | Repeals |

A

B I L L

TO

Amend the law relating to dogs.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Dog licences

Exemptions

1.—(1) Article 5 of the Dogs Order (exemptions) is amended as follows.

(2) For paragraph (b) substitute—

5 “(b) a dog kept and used by a disabled person (within the meaning of the Disability Discrimination Act 1995 (c. 50)) wholly or mainly for the purpose of assisting that person to carry out normal day-to-day activities;”.

Microchipping

10 2.—(1) In Article 6 of the Dogs Order (issue of dog licences) at the end add—

 “(7) A district council shall not—

 (a) issue a dog licence in respect of a dog, or

 (b) issue a transfer certificate in respect of a new dog,

15 unless that dog has been microchipped; and any licence or transfer certificate purporting to be issued in respect of a dog which has not been microchipped is void.

 (8) For the purposes of paragraph (7) a dog is microchipped if (and only if)—

20 (a) a microchip has been implanted in the dog before the coming into operation of section 2(1) of the Dogs (Amendment) Act (Northern Ireland) 2011; or

 (b) a microchip is implanted in the dog in accordance with regulations under Article 31(1)(f).

Dogs (Amendment)

(9) Paragraph (7) does not apply if the keeper of the dog produces to the council a certificate signed by a veterinary surgeon to the effect that implantation (or continued implantation) of a microchip in the dog would have an adverse effect on the health of the dog.”.

(2) In Article 31(1) of the Dogs Order (regulations with respect to dogs) after sub-paragraph (e) insert— 5

“(f) prescribe and regulate the microchipping of dogs and regulate the reading of any microchip implanted in a dog.”.

(3) In Article 31 of the Dogs Order after paragraph (1) insert—

“(1A) Regulations under paragraph (1)(f) may in particular provide— 10

(a) for the use of microchipping as a means of—

(i) identification of a dog and its keeper;

(ii) licence identification;

(b) for conferring powers on officers in connection with such identification; 15

(c) that a dog is microchipped for the purposes of Article 6(7) if (and only if)—

(i) the microchip is of a prescribed class or description or of a class or description approved by a prescribed body or person;

(ii) the microchip is implanted in the dog by a person of a prescribed class or description; 20

(iii) any prescribed conditions in relation to the keeping and making available to councils of information in connection with the use of the microchip as mentioned in sub-paragraph (a) are satisfied; and 25

(iv) any other prescribed conditions are satisfied.”.

Licensing of dangerous dogs

3.—(1) Article 6 of the Dogs Order (issue of dog licences) is amended as follows.

(2) After paragraph (9) (inserted by section 2) insert— 30

“(10) A district council shall not—

(a) issue a dog licence in respect of a dog to which Article 25A applies, or

(b) issue a transfer certificate in respect of such a dog,

unless the dog is exempted from the prohibition in Article 25A(3).” 35

Fees

4.—(1) For Article 7 of the Dogs Order substitute—

“Fees for dog licences

7.—(1) On the issue of a dog licence, the person to whom the licence is issued must pay the appropriate fee. 40

Dogs (Amendment)

(2) Paragraph (1) does not apply to—

- (a) a licence issued to a person over the age of 65 in respect of the first or only dog kept by that person;
- (b) a licence issued to any prescribed person or in any prescribed circumstances.

(3) The appropriate fee is £5 in the case of—

- (a) a licence issued to a person over the age of 65, other than a licence falling within paragraph (2)(a);
- (b) a licence issued to a person in receipt of an income-related benefit (within the meaning of the Social Security Administration (Northern Ireland) Act (Northern Ireland) 1992 (c. 8)) at the time of the application for the licence;
- (c) a licence issued in respect of a sterilised dog.

(4) In any other case the appropriate fee is £12.50.

(5) Paragraphs (2) and (3) do not apply in the case of a licence issued in respect of a dog to which Article 25A applies (and accordingly in the case of such a licence the appropriate fee is that mentioned in paragraph (4)).

(6) The Department may by order made with the consent of the Department of Finance and Personnel amend a sum for the time being specified in paragraph (3) or (4).

(7) An order under paragraph (6) shall not be made unless the Department has consulted such organisations as appear to the Department to be representative of interests substantially affected by the order.

(8) Where within 30 days from the date of the issue of a dog licence—

- (a) the holder of the licence does not take possession of a dog, or
- (b) the holder takes possession of a dog but subsequently disposes of the dog, or
- (c) the dog dies,

the holder of the licence may apply to the district council by which the licence was issued for a refund of the sum paid on the issue of the licence.

(9) An application for a refund under paragraph (8) shall be in the prescribed form.”.

(2) In Article 8(4) of the Dogs Order (fee for block licence) for “£12.50” substitute “£32”.

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.

5 (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.

10 (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.

15 (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;

20 (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.

25 (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

30 (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.”.

35 **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

40 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);

Dogs (Amendment)

- (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. 5

(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. 10

(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; 15
- (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— 20

- (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. 25

(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). 30

Control conditions

30B.—(1) The control conditions which may be imposed on a dog licence by a notice under Article 30A are— 35

- (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; 40
- (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—

Dogs (Amendment)

- (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. 5
- (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. 10
- (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). 15
- (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. 20
- (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 25
 - (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. 30
- (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 35
 - (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— 40

Dogs (Amendment)

(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

5 (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

10 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.

15 (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—

20 “(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

25 (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

30 **10.** In Article 42(1) of the Dogs Order (power of entry for certain purposes) after sub-paragraph (b) insert “or

(c) preventing a dog attacking another dog or ending any such attack;”.

Fixed penalties

Fixed penalty offences

35 **11.**—(1) Article 35 of the Dogs Order (offences to which fixed penalty applies) is amended as follows.

(2) In paragraph (1) after sub-paragraph (d) insert—

“(da) Article 30E(3) (failure to notify transfer of dog subject to control conditions);

(db) Article 30F(1) (failure to comply with control conditions of dog licence);”.

Payment of fixed penalty to council

12. For Article 37 of the Dogs Order (payment of fixed penalty to clerk of petty sessions) substitute— 5

“Payment of fixed penalty

37.—(1) The fixed penalty payable in pursuance of a notice under Article 36 is payable to the district council whose officer gave the notice.

(2) In any proceedings a certificate which—

(a) purports to be signed on behalf of the clerk of the council, and 10

(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.

(3) In this Article “clerk of the council”, in relation to a district council, means the clerk appointed in accordance with section 41 of the Local Government Act (Northern Ireland) 1972 (c. 9).” 15

Use of fixed penalty receipts of council

13. After Article 37 of the Dogs Order insert—

“Use of fixed penalty receipts

37A.—(1) This Article applies in relation to amounts paid to a district council in pursuance of notices under Article 36 (its “fixed penalty receipts”). 20

(2) A district council may use its fixed penalty receipts only for the purposes of its functions under this Order.”

Amount of fixed penalty 25

14. For Article 38 of the Dogs Order (amount of fixed penalty) substitute—

“Amount of fixed penalty

38.—(1) The amount of a fixed penalty payable to a district council in pursuance of a notice under Article 36 in respect of an offence to which Articles 36 to 38 apply— 30

(a) is the amount specified by the district council; or

(b) if no amount is so specified, is £75.

(2) A district council may under paragraph (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 Article 36 as having been paid if a lesser amount is paid before the end of a period specified by the council. 35

Dogs (Amendment)

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

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

(a) require an amount specified under paragraph (1)(a) to fall within a range prescribed in the regulations;

(b) restrict the extent to which, and in the circumstances in which, a district council can make provision under paragraph (3).

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

Assembly control of orders made by Department

15. For Article 54 of the Dogs Order substitute—

“Orders

54.—(1) Except as provided by paragraph (2), orders made by the Department under this Order are subject to negative resolution.

(2) No order shall be made 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 unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.”.

Supplementary

Interpretation

16. In this Act—

“the Department” means the Department of Agriculture and Rural Development;

“the Dogs Order” means the Dogs (Northern Ireland) Order 1983 (NI 8).

Minor and consequential amendments and repeals

17.—(1) The statutory provisions set out in Schedule 1 have effect subject to the minor and consequential amendments specified in that Schedule.

(2) The statutory provisions set out in Schedule 2 are repealed to the extent specified in the second column of that Schedule.

Commencement

18.—(1) The preceding sections of this Act (and the Schedules) come into operation on such day or days as the Department may by order appoint.

(2) An order under subsection (1) may contain such transitional or saving provisions as the Department thinks appropriate.

Short title

19. This Act may be cited as the Dogs (Amendment) Act (Northern Ireland) 2011.

SCHEDULES

Section 17.

SCHEDULE 1

MINOR AND CONSEQUENTIAL AMENDMENTS

The Dogs (Northern Ireland) Order 1983 (NI 8)

1. In Article 15(2) for sub-paragraphs (a) and (b) substitute “free of charge.”. 5
2. In Article 22(3)(b) for “appears to an officer to be” substitute “is”.
3. In Articles 25C(2)(a) and 33A(1) for “29(1A)” substitute “29”.
4. In Article 47 after paragraph (d) insert “or
(e) any premises in respect of which a block licence is in force;”.
5. Omit Article 55 (which is spent). 10

The Dogs (Amendment) Act (Northern Ireland) 2001 (c. 1)

5. In section 2(2) for “sub-paragraph (a) of Article 25C(3)” substitute “Article 25C(4) or 33(1B)”.
6. Omit sections 3 and 4 (which are spent).

SCHEDULE 2

15

REPEALS

Short Title	Extent of repeal	
The Dogs (Northern Ireland) Order 1983 (NI 8)	In Article 8(4) the words “, subject to affirmative resolution”.	
	In Article 23(7)(b) the words “, subject to affirmative resolution,”.	20
	In Article 25(4) the words “, subject to affirmative resolution,”.	
	In Article 25B(1) the words “, subject to affirmative resolution,”.	25
	In Article 35(2) the words “subject to affirmative resolution,”.	
	In Article 46 the words “, subject to affirmative resolution,”.	
	Article 55.	30
The Dangerous Dogs (Northern Ireland) Order 1991 (NI 21)	Article 4. Article 7(3) and (4).	

Dogs (Amendment)

SCH. 2

Short Title	Extent of repeal
The Dogs (Amendment) Act (Northern Ireland) 2001 (c. 1)	Section 2(1). Sections 3 and 4.

Dogs (Amendment) Bill

[AS AMENDED AT CONSIDERATION STAGE]

A Bill to amend the law relating to dogs.

Introduced by: Ms Michelle Gildernew, Minister of Agriculture and Rural
Development

On: 24 May 2010

As Amended at
Consideration Stage: 18 January 2011

Bill Type: Executive

ACCOMPANYING DOCUMENTS

**An Explanatory and Financial Memorandum is printed separately as
NIA Bill 20/09-EFM REVISED.**

Belfast: The Stationery Office

£3.50

Printed in Northern Ireland by The Stationery Office Limited
© Copyright Northern Ireland Assembly Commission 2010

ISBN 978-0-339-20491-1

