

DOGS (AMENDMENT) BILL 2005

Explanatory Memorandum

1. This Bill, which is promoted by the Department of Local Government and the Environment, transfers responsibility for administering dog licences from the Treasury to the Department, responsibility for making byelaws from the Department to local authorities, introduces fixed penalty notices for certain offences and makes amendments to the Dogs Act 1990.

2. Clause 1 enables regulations to be made under which a dog implanted with an identifying microchip is exempted from the requirement that it wear a collar with the owner's name and address. Regulations may also be made to provide for alternative means of identifying a dog. Clause 2 requires a dog on a highway which includes a carriageway to be kept under effective control. Clause 3 transfers from the Department to local authorities the power to make byelaws relating to dogs. Clause 4 enables a fixed penalty notice to be given in respect of certain offences relating to dogs and provides for fines deriving from local authority prosecutions to be paid to the prosecuting local authority. Clause 5 makes minor amendments and repeals. Clause 6 provides the short title and for the Bill to come into operation by appointed dayorder.

3. It is not expected that the Bill will have any effect on public revenue, expenditure or personnel.

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Arrangement of sections

1. Alternative means of identification
2. Control of dogs on roads
3. Byelaws
4. Fixed penalties
5. Amendments and repeals
6. Short title etc.

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to amend the Dogs Act 1990; and for connected purposes.

WE, your Majesty's most dutiful and loyal subjects, the Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows (that is to say):—

1. Alternative means of identification.

In section 4 (dog collars) of the Dogs Act 1990¹, at the end insert —

5 “(5) Regulations may provide that this section shall apply not apply, or shall apply subject to prescribed modifications, to a dog which is implanted with an electronic transponder as an alternative to a dog collar, by means of which, with the use of an appropriate device, the dog may be identified by reference to a prescribed register.

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(6) The Department may by regulations provide for alternative means of identification of dogs after consultation with such persons as it considers appropriate.”

15 **2. Control of dogs on roads**

For section 23 (control of dogs on roads) of the Dogs Act 1990 substitute —

20 “23 Control of dogs on roads

- (1) If a dog —
(a) is on a highway which consists of or comprises a carriageway, and
(b) is not under effective control,

25 the keeper of the dog shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(2) A person shall not be convicted of an offence under subsection (1) if the keeper satisfies the court that he took all reasonable steps to keep the dog under effective control.”

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3. Byelaws

(1) For section 24 (byelaws) of the Dogs Act 1990 substitute —

¹ 1990 c.16

“24 Byelaws

(1) A local authority may make byelaws having effect within its district providing that, where any dog, during a specified period of time or throughout the year —

- 5 (a) is found to be at large in a specified open space or on a specified beach at any time of day; or
(b) is permitted to have access to a specified open space or specified beach at any time of day,
the keeper of the dog shall, subject to subsection (2), be guilty of an offence and liable on summary conviction to a fine not exceeding
10 £1,000.

(2) A person shall not be convicted of an offence under byelaws under subsection (1) if he satisfies the court that he took all reasonable steps to prevent the dog from being at large in the open
15 space or on the beach, or entering or remaining in the open space, or going or remaining on the beach, as the case may be.

(3) A dog at large in an open space or on a beach in contravention of byelaws under subsection (1) may be seized —

- 20 (a) by a constable or a dog warden, or
(b) by a person authorised in writing for the purpose by the local authority by whom the byelaws were made;

and Part III shall apply as if it were a stray dog.

(4) A local authority may make byelaws having effect within its district providing that, where the keeper of a dog fails to remove any faeces deposited by the dog on —

- 25 (a) any highway which consists of or comprises a carriageway,
(b) a specified open space, or
30 (c) a specified beach,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(5) Byelaws shall not be made under this section as respects an open space which is not vested in or under the management or
35 control of the local authority, except with the consent of the owner of the open space; but in any proceedings for an offence under the byelaws, it shall be presumed that such consent was given unless the contrary is shown.

(6) Notice of the effect of any byelaw under subsection (1) or subsection (4)(b) or (c) shall be given by signs placed in
40 conspicuous positions in, at or near the specified open space or beach.

(7) In this section —
“open space” includes any land laid out for sport, play
45 or recreation (whether public or not) or as public walks or pleasure grounds, and any part of any such land, but does not include any land vested in or managed or controlled by the Department of Agriculture, Fisheries and Forestry to which the public have access;
“specified”, in relation to any matter, means specified in
50 the byelaws in question.

(8) Section 30(8) of the Local Government Act 1985² applies to byelaws under this section with the modification that the reference to an officer of the authority shall be construed as including a reference to a dog warden.

5 (9) This section is without prejudice to any other power of a local authority to make byelaws as respects any land.

(10) Byelaws made under this section shall not have effect unless approved by the Department and shall expire ten years after the date they are made.

10 (11) Where the Department has withheld its approval under subsection (10), the applicants for the byelaws may present a petition to Tynwald praying that such byelaws be made; and Tynwald, if it considers that such byelaws should be made, may by resolution direct that the Department make such byelaws .”

15 (2) Any byelaws applying within the district of a local authority and made by the Department under the said section 24 as it had effect before the commencement of this section shall –

(i) for a period of twelve months from the date of such commencement have effect as if they had been made by the local authority in its district under the said section 24 as substituted by subsection (1), and may be amended or repealed accordingly; and

(ii) upon the expiry of the period of twelve months from the date of such commencement, be revoked.

25 (3) Without prejudice to the power to amend or repeal any such byelaws conferred by subsection (2)(i), the Department may by regulations make such modifications of any byelaws referred to in subsection (2) as appear to it to be necessary or expedient in consequence of subsections (1) and (2).

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4. Fixed penalties

After section 27 of the Dogs Act 1990 insert —

“27A Fixed penalties

35 (1) Where a constable, dog warden or authorised officer has reasonable cause to believe that a person has committed or is committing an offence under section 4(2), 5(1) or 23, or under byelaws under section 24, he may give that person a notice in writing in the prescribed form offering the opportunity of discharging any liability to be convicted of that offence by payment of a fixed penalty under this section.

40 (2) A person to whom a notice is given under this section in respect of an offence shall not be liable to be convicted of that offence if the fixed penalty is paid in accordance with this section before the expiration of 14 days following the date of the notice or such longer period (if any) as may be specified in the notice.

45 (3) Where a person is given a notice under this section in respect of an offence, criminal proceedings shall not be taken against any person for the act constituting that offence before the expiration of

² 1985 c.24

14 days following the date of notice, or such longer period (if any) as may be specified in the notice.

(4) The amount of a fixed penalty under this section shall be £50.

(5) The Department may by order substitute a different amount for the amount for the time being specified in subsection (4).

(6) Payment of a fixed penalty under this section shall be made to –

(a) the Chief Registrar in the case of notices issued by a constable, dog warden or authorised officer of the Department of Agriculture, Fisheries and Forestry, or

(b) the local authority authorised to enforce any byelaws under section 24, within the district of the authority for the benefit of that authority (“the relevant authority”) in the case of notices issued by its authorised officers

and may be recovered as a civil debt.

(7) In any proceedings a certificate purporting to be signed by or on behalf of the Chief Registrar in the case of payment under subsection (6)(a) and by an authorised officer on behalf of the relevant authority in the case of payment under subsection (6)(b) that payment of a fixed penalty under this section was or was not made in accordance with subsection (6) by a date specified in the certificate shall be evidence of the fact stated.

(8) In this section “prescribed” means prescribed by regulations made by the Department.

27B. Payment of fines to local authorities

Fines adjudged to be paid by a conviction under sections 4(2), 5(1), 23 and 24 shall in the case of prosecutions brought by a local authority be paid to the Chief Registrar for the benefit of the prosecuting local authority.”

5. Minor amendments and repeals of the Dogs Act 1990

In the Dogs Act 1990 –

(i) in section 2(c) for “police purposes”, substitute “law enforcement purposes or search and rescue purposes by such authorities as may be prescribed.”;

(ii) for section 2(ca) substitute –

“(ca) a dog kept and solely used for –

(i) sporting purposes; or

(ii) catching or destroying vermin; or

(iii) driving or tending cattle or sheep;”;

(iii) in section 5 (production of licences), section 25 (duty to give name and address) and section 26 (obstruction) of the Dogs Act

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1990, for “a constable or a dog warden” substitute “a constable, dog warden or authorised officer”;

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- (iv) in section 13(3) (c)
- (v) in section 14(1) for “14 days” substitute “7 days” wherever it appears;
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- (vi) in section 22, insert the cross-heading substitute “Disposal of carcasses and omit “unburied”
- (vii) in section 27 (financial provision) –
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- (i) omit “or the Treasury” in subsections (1) and (2); and
- (ii) in subsection (2) after “Island”, insert “or, with the agreement of the Department and the Treasury, any duly appointed agent of the Department.”;
- (viii) in section 28 (orders and regulations) –
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- (a) in subsection (1) omit ‘(except Schedule 1)’ and add after “prescribed”, “and such regulations shall be laid before Tynwald”;
- (b) omit subsection (2);
- (c) in subsection (3) omit “and regulations”;
- (d) after subsection (3) add –
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- “(4) Byelaws approved by the Department and made under this Act shall be laid before Tynwald.”;
- (vii) in section 30 (interpretation) of that Act –
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- (a) insert alphabetically -
- ““authorised officer” means an officer of a local authority authorised to enforce this Act, or any byelaws under section 24, within the district of the authority and includes, on land vested in or managed or controlled by the Department of Agriculture, Fisheries and Forestry to which the public have access, an officer authorised by that Department;
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- “carriageway” means a way (other than a cycle track) over which the public have a right of way for the passage of vehicles;
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- “collar” includes any restraining harness;
- “highway” includes a footpath over which the public have a right of way on foot only;
- “relevant authority” has the meaning given to it in section 27A(6);” and
- 45
- (b) in the definition of “regulations” delete “(in the case of anything to be prescribed under Schedule 1) by the Treasury or (in any other case)”;
- (x) in section 1(2) and in Schedule 1, for “Treasury” substitute
- 50
- “Department”;

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- 5 (xi) in Schedule 1, add after paragraph 1(4) –
“(5) The Department may by order modify the provisions of
this paragraph to enable a dog licence to be taken out for any
period of 12 months running from the beginning of the month
in which the licence has effect and may make such transitional
arrangements as may be necessary.”;
- 10 (xii) in Schedule 1 paragraph 8(1) omit “prescribed fee” and add
“such duty as may be prescribed by order”; and
- (xiii) section 31(1) and (3) of, and Schedules 2 to that Act are
repealed.
- 15 (2) Section 7 of the Statute Law Revision Act 1992 is repealed.

6. **Short title etc.**

- 20 (1) This Act may be cited as the Dogs (Amendment) Act 2005.
- (2) In this Act “the Department” means the Department of Local
Government and the Environment.
- 25 (3) This Act shall come into operation on such day or days as the
Department may by order appoint.

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