

Dog Control Bill [HL]

[AS AMENDED IN COMMITTEE]

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Schedule – Databases

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B I L L

[AS AMENDED IN COMMITTEE]

TO

Make provision about the control of dogs; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Responsibility for dogs

- (1) In this Act, references to a person being responsible for a dog are to a person responsible for a dog whether on a permanent or temporary basis.
- (2) In this Act, references to being responsible for a dog include being in charge of it. 5
- (3) For the purposes of this Act, a person who owns a dog shall always be regarded as being a person who is responsible for it.
- (4) For the purposes of this Act, a person shall be treated as responsible for any dog for which a person under the age of 16 years in their care and control is in charge. 10

2 Control of dogs

- (1) It is an offence to—
 - (a) allow a dog for which they are responsible to be dangerously out of control, in either a public or private place;
 - (b) encourage a dog for which they are responsible to be aggressive or to intimidate people or other protected animals; 15
 - (c) allow a dog for which they are responsible to attack a person or another protected animal without reasonable cause.
- A person responsible for a dog that injures any person shall be guilty of an aggravated offence. 20

- (2) For the purposes of this Act, protected animal has the same meaning as in section 2 of the Animal Welfare Act 2006.
- (3) There may be seen to be reasonable cause if –
- (a) the person attacked was committing an offence for which the penalty could be a custodial sentence; 5
 - (b) the person or protected animal was in a place where they were not permitted to be which was enclosed by adequately maintained and substantial boundaries which would reasonably be expected to be capable of restraining a dog and which was clearly marked to warn such persons against entering; 10
 - (c) the dog is being used for a lawful purpose by a person licensed by a body established by the Private Security Industry Act 2001 or a person who complies with BS8517-1;
 - (d) the dog is being used for a lawful purpose by a constable or a person in the service of the Crown; 15
 - (e) the dog was provoked into an attack by a person other than the person responsible for it as defined in section 1;
 - (f) the dog was being attacked by another animal; or
 - (g) the dog is competing in recognised dog trials in which they demonstrate their working ability; 20
- but this list is not exhaustive.

3 Dog control notices

- (1) An authorised officer may serve on the proper person a written notice (a “dog control notice”) requiring the person to bring and keep the dog under control if – 25
- (a) it comes to the attention of an authorised officer that a dog has, on at least one occasion after this section has come into force, been out of control,
 - (b) a court makes a requirement under section 5(3) or a case is remitted under section 9(3). 30
- (2) It is immaterial, for the purposes of section (1)(a), that on either, any or all of the occasions the dog was out of control some person other than the proper person was in charge of the dog.
- (3) For the purposes of this Act, a dog is out of control if it is not being kept under control effectively and consistently (by whatever means) by the proper person, and – 35
- (a) it injures any person; or
 - (b) there are grounds for reasonable apprehension that it will do so.
- (4) The apprehension mentioned in subsection (3)(b) may be as to – 40
- (a) the individual’s own safety,
 - (b) the safety of some other person, or
 - (c) the safety of a protected animal other than the dog in question.
- (5) In this Act an “authorised officer” in the context of any provision means a person appointed to be an authorised officer for the purposes of that provision by – 45
- (a) the appropriate national authority;
 - (b) a local authority; or

- (c) a police officer who complies with subsection (6).
- (6) In appointing any person to be such an authorised officer for the purposes of this Act, the appropriate national authority, local authority or police authority is to satisfy itself that the person is skilled in the control of dogs and has the capacity to instruct and advise others in matters relating to the control of dogs. 5
- (7) A dog control notice shall not relate to more than one dog.
- (8) Any authorised officer serving a dog control notice must notify the appropriate local authority.

4 Content of dog control notice

- (1) A dog control notice shall require – 10
 - (a) that the person responsible (“P”) –
 - (i) complies with the terms of the notice to the satisfaction of the local authority which has the duty of monitoring its effectiveness and enforcing it, and
 - (ii) on changing name, address or phone number, notifies the authority of the change in question; 15
 - (b) that, within 14 days after the effective date, either –
 - (i) an electronic transponder compliant with ISO Standard 11784 and 11785 be duly implanted in the dog as a means of identifying the animal and registered on a database meeting the requirements set out in the Schedule, or 20
 - (ii) P satisfies the local authority (by providing such information to them as they may require), that such a transponder was duly implanted in the dog before the notice was served and already constitutes a means of identifying the animal and is registered on a database meeting the requirements set out in the Schedule; 25
 - (c) that, on an electronic transponder being implanted under paragraph (b)(i), P informs the local authority that it has been implanted and by whom, together with the identification number of the device; and
 - (d) that P or an entrusted person be present and in charge of the dog. 30
- (2) An electronic transponder is implanted for the purposes of subsection (1)(b) if it is implanted by a person who, in the opinion of the local authority, is appropriately qualified to carry out such an implant.
- (3) An entrusted person for the purposes of subsection (1)(d) is a person who – 35
 - (a) has attained the age of 16 years,
 - (b) has for the time being been entrusted by P with charge of the dog,
 - (c) has been made familiar by P with the requirements of the dog control notice, and
 - (d) is willing and able to comply with those requirements.
- (4) A dog control notice may specify other steps P is required to take, in particular steps which in the opinion of the authorised officer – 40
 - (a) must be taken if the dog is to be brought and kept under control, or
 - (b) would be conducive to its being brought and kept under control,
 and in specifying any such step the notice may specify a date by which it is to be taken. 45
- (5) Subsection (4) is subject to sections 5(4) and 7(7).

- (6) Steps specified by virtue of subsection (4) may, without prejudice to the generality of the subsection in question, include any or all of the following –
- (a) muzzling the dog whenever it is in a place to which the public have access;
 - (b) keeping the dog on a lead whenever it is in a place to which the public have access; 5
 - (c) neutering the dog;
 - (d) keeping the dog away from a place, or category of places, specified in the notice;
 - (e) imposing a period of curfew; and 10
 - (f) P, with the dog, attending and completing a course of training in the control of dogs;
- but this list is not exhaustive.
- (7) Ministers may by order –
- (a) amend any paragraph of subsection (1) or (6) (including any paragraph added by virtue of paragraph (b) or (c) of this subsection), 15
 - (b) amend subsection (1) by adding a further requirement, or
 - (c) amend subsection (6) by adding a further example of a step which might be specified in a dog control notice.
- (8) A dog control notice must include – 20
- (a) the date on which it is served and a statement that the order comes into effect on that date;
 - (b) the name and address of P;
 - (c) a description of, and information regarding, the dog, including the identification number of the transponder device; 25
 - (d) the reason for the authorised officer concluding that the dog has been out of control (including a description of the circumstances on the basis of which the officer has come to that conclusion); and
 - (e) the information that –
 - (i) section 5 of this Act provides for an appeal against a dog control notice or against a term of such a notice; 30
 - (ii) section 9 of this Act provides for the discharge or variation of a dog control notice;
 - (iii) section 10 of this Act provides for any dog which continues to be out of control; and 35
 - (iv) it is an offence under section 7 of this Act to fail to comply with a dog control notice.
- (9) A dog control notice may include such other matters as the local authority thinks fit provided the inclusion is consistent with any order under subsection (10). 40
- (10) Ministers may by order prescribe a form for a dog control notice.
- (11) Different provision may be made under subsection (10) for different cases or for different classes of case.
- (12) The date mentioned in subsection (8)(a) is referred to in this Act as the “effective date”. 45

5 Appeal against dog control notice

- (1) P may by summary application appeal to the magistrates' court against—
 - (a) a dog control notice served under section 3(1)(a), or
 - (b) a term of such a notice.
- (2) On any such appeal, the court may on the application of P suspend the effect of the dog control notice, or of any term of that notice, pending a decision in the appeal. 5
- (3) On any such appeal, the court may—
 - (a) uphold or discharge the notice or term appealed against,
 - (b) in the case of an appeal under subsection (1)(a), decline to discharge the notice but discharge or vary a term of the notice, 10
 - (c) in the case of an appeal under subsection (1)(b)—
 - (i) decline to discharge the term appealed against but vary it,
 - (ii) discharge or vary any other term of the notice.
- (4) Without prejudice to the generality of subsection (3), variation of a term of the notice may include— 15
 - (a) specifying a step to be taken by P additional to any specified by virtue of section 4(4);
 - (b) substituting a date for that by which a step is to be taken.

6 Duty of local authority to monitor effectiveness of and to enforce dog control notice etc. 20

- (1) An appointing authority must—
 - (a) monitor the effectiveness of, and
 - (b) enforce,
 any dog control notice served by an authorised officer appointed by the authority. 25
- (2) A local authority must record, and when necessary update, such information as Ministers may require in relation to any dog control notice served by an authorised officer.
- (3) When a local authority updates information under subsection (2), they are to inform P accordingly. 30
- (4) Ministers may, in relation to information held by a local authority by virtue of subsection (2), by order—
 - (a) permit the authority to share, for the purposes of this Act, that information with other local authorities, Ministers and the police, and 35
 - (b) permit or require any person to be given access to that information, or to some part of that information, for research purposes.

7 Failure to comply with dog control notice

- (1) If P fails to comply with a dog control notice, then P commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale. 40
- (2) Where P is convicted of an offence under subsection (1), the court—

- (a) may make an order disqualifying P from owning or keeping a dog during such period as the court thinks fit,
- (b) where the court considers that the dog in respect of which the offence was committed is dangerous, may make an order –
- (i) appointing a person to undertake the dog’s destruction, and 5
 - (ii) requiring that it be delivered up for that purpose.
- (3) Where a court so orders the destruction of a dog under subsection (2)(b) P may appeal against the order to the Crown Court.
- (4) Whether or not P is so convicted, the court may discharge the dog control notice. 10
- (5) If the court does discharge the dog control notice, it may impose a requirement that P be subject to a further dog control notice, served by the local authority.
- (6) Subsection (5) does not apply if, in the case of a conviction, an appointment is made under subsection (2)(b)(i).
- (7) In imposing a requirement under subsection (5), the court is to direct that the further dog control notice include (in place of any that might be specified by virtue of section 4(4)) such steps, to be taken by P, as are set out in the direction. 15
- (8) Where P is convicted of an offence under subsection (1), for the purposes of any appeal, the following action is to be treated as a sentence –
- (a) an order under subsection (2)(a) or (2)(b); 20
 - (b) any requirement imposed under subsection (5); and
 - (c) any direction given under subsection (7).
- (9) Even where P is not so convicted, P may appeal to the magistrates’ court against –
- (a) any requirement so imposed under subsection (5), and 25
 - (b) any direction given under subsection (7).
- 8 Discharge or variation of dog control notice at instigation of local authority**
- (1) An appointing authority may at their own instigation, at any time other than when an application under section 9 is pending, discharge or vary a dog control notice they are monitoring. 30
- (2) On a dog control notice being discharged under subsection (1), the local authority is to advise P accordingly.
- 9 Discharge or variation of dog control notice on application of person on whom it was served**
- (1) P may apply at any time to the local authority which has the duty of enforcing a dog control notice for the notice to be discharged or varied. 35
- (2) An application under subsection (1) is to contain a written statement as to the grounds on which the application is based.
- (3) The grounds on which an application to discharge the order may be based are – 40
- (a) that the dog to which the notice relates has died,
 - (b) that the dog is no longer out of control, or

- (c) that the circumstances are otherwise such that it would be unreasonable not to discharge the order.
- (4) Where the grounds on which the application is based include a change of ownership of the dog, the statement must include the name and address of the person who has day-to-day charge of the dog at the current time. 5
- (5) If the local authority declines to grant the application, P may by summary application appeal to the court.

10 Prosecution

- (1) A person guilty of an offence under section 2 of this Act shall be liable to one or more of the following— 10
- (a) a control order which requires the person responsible for the dog to comply with a control notice (where the person has not previously complied);
 - (b) a disqualification order which disqualifies the person responsible for the dog from keeping dogs for a specified period of time; 15
 - (c) a deprivation order which removes custody of the dog from the person responsible for it;
 - (d) a destruction order which stipulates that the dog in question must be destroyed;
 - (e) on summary conviction other than for the aggravated offence, imprisonment for a term not exceeding 51 weeks or a fine not exceeding level 5 on the standard scale; 20
 - (f) on summary conviction for the aggravated offence, imprisonment for a term not exceeding 51 weeks or a fine not exceeding the statutory minimum, or both; or 25
 - (g) on indictment for the aggravated offence, imprisonment for a term not exceeding two years or a fine, or both.
- (2) Where a deprivation order is made under subsection (1)(c) the court may dispose of the dog—
- (a) by selling or giving it to a person who will, in the court's opinion, care properly for the dog; 30
 - (b) by selling it or giving it to an establishment for the reception of stray dogs; or
 - (c) by destroying it in a manner to cause as little pain as possible;
- but no dog seized under this section shall be sold or given for the purposes of vivisection. 35
- (3) In proceedings for an offence under section 2 of this Act, or failure to comply with the provisions set out in a control notice, if the proceedings are against a person who is the owner of a dog but was not at the material time in charge of it, it shall be a defence for the accused to prove that the dog was at the material time in the charge of a person whom he reasonably believed to be a fit and proper person to be in charge of it. 40
- (4) Where an order is made under subsection (1)(d) for the destruction of a dog owned by a person other than the offender, the owner may appeal to the Crown Court against the order. 45
- (5) Disqualification under subsection (1)(b) disqualifies a person—
- (a) from owning animals,

- (b) from keeping animals,
- (c) from participating in the keeping of animals,
- (d) from being party to an arrangement under which he is entitled to control or influence the way in which animals are kept, and
- (e) from dealing in animals.

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11 Powers to seize and destroy dogs

- (1) An officer of a police force or a local authority authorised by it to exercise the powers conferred by this section may seize any dog which is subject to the proceedings outlined in section 10.
- (2) If a court is satisfied by information on oath that there are reasonable grounds for believing that an offence under any provision of this Act is being or has been committed on any premises, the court may issue a warrant authorising a constable to enter those premises, using such force as is necessary and to search them and seize any dog or other thing found there which is evidence of the commission of such an offence.
- (3) A court may issue a disposal order –
 - (a) by selling or giving it to a person who will, in the court’s opinion, care properly for the dog;
 - (b) by selling it or giving it to an establishment for the reception of stray dogs; or
 - (c) by destroying it in a manner to cause as little pain as possible; but no dog seized under this section shall be sold or given for the purposes of vivisection.
- (4) A court may issue a destruction order for the disposal of any dogs held prior to trial for prosecutions under section 10 of this Act if it is thought necessary to protect the dog’s welfare.
- (5) A court may issue a seizure order for non-compliance with a dog control order, as set out in section 7.

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12 Repeals

The following Acts are repealed –

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- (a) the Dogs Act 1871;
- (b) the Dangerous Dogs Act 1989;
- (c) the Dangerous Dogs Act 1991;
- (d) the Dangerous Dogs (Amendment) Act 1997.

13 Short title, interpretation, commencement and extent

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- (1) This Act may be cited as the Dog Control Act 2010.
- (2) In this Act –
 - “local authority” has the same meaning as in section 149 of the Environmental Protection Act 1990;
 - “public place” means any street, road or other place (whether or not enclosed) to which the public have or are permitted to have access whether for payment or otherwise and includes the common parts of a building containing two or more separate dwellings.

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- (3) For the purposes of this Act, a dog shall be regarded as dangerously out of control on any occasion on which there are grounds for reasonable apprehension that it will injure any person, whether or not it actually does so, but references to a dog injuring a person or there being grounds for reasonable apprehension that it will do so do not include references to any case in which the dog is being used for a lawful purpose by a constable or a person in the service of the Crown or a person licensed by a body established by the Private Security Industry Act 2001 or a person who complies with BS8517-1. 5
- (4) For the purposes of this Act, a dog shall be regarded as having been involved in an attack if it has bitten, mauled or injured a person or another protected animal. 10
- (5) Any order made under this Act is to be made by statutory instrument and shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint. 15
- (7) This Act extends to England and Wales only.

SCHEDULE

Section 4

DATABASES

Contents of database

- | | | |
|---|--|----|
| 1 | (1) The database must contain the following information in relation to each dog registered – | 5 |
| | (a) name and address of the owner, or owners where there is joint ownership; | |
| | (b) a contact telephone number for each owner; | |
| | (c) name of the dog; | |
| | (d) number of the transponder device implanted; | 10 |
| | (e) breed of the dog; | |
| | (f) sex of the dog; | |
| | (g) year of birth of the dog; and | |
| | (h) a reference to any other dogs registered under the owner’s name on the database. | 15 |
| | (2) The database operator must record or update this information within five working days of receipt of the information. | |
| | (3) For the purposes of paragraphs 1 and 3, “working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which in England is a bank holiday under the Banking and Financial Dealings Act 1971. | 20 |

Accuracy

- | | | |
|---|---|--|
| 2 | The database operator must have in place a checking system to ensure that any information inputted is accurate. | |
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Access to information

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- | | | |
|---|--|----|
| 3 | (1) The database operator must – | |
| | (a) answer all telephone calls received in normal working hours on all working days; | |
| | (b) provide the information in section 6 free of charge to authorised third parties during all normal working hours; and | 30 |
| | (c) charge a reasonable rate for the telephone call. | |
| | (2) For the purposes of sub-paragraphs (1)(a) and (1)(b) “normal working hours” means the hours between 9am and 5pm. | |
| | (3) For the purposes of sub-paragraph (1)(b), “authorised third parties” means – | 35 |
| | (a) any police constable; | |
| | (b) any representative of the Secretary of State; or | |
| | (c) any representative of the local authority. | |

Contingency provisions

- 4 The database operator must—
- (a) have adequate computer software and hardware to store the information in the database;
 - (b) maintain a secure electronic backup of all of the information stored in the database; 5
 - (c) make provisions for the transfer of the information contained in the database to another database operator if the database ceases to operate; and
 - (d) be compliant with EU ISO standards. 10

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[AS AMENDED IN COMMITTEE]

To make provision about the control of dogs; and for connected purposes.

Lord Redesdale

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