STATUTORY INSTRUMENTS

2015 No. 138

DOGS, ENGLAND AND WALES

The Dangerous Dogs Exemption Schemes (England and Wales) Order 2015

Made - - - -	*4th February 2015*
Laid before Parliament	*10th February 2015*
Coming into force - -	*3rd March 2015*

The Secretary of State makes this Order in exercise of the powers conferred by section 1(5), (6) and (6A) of the Dangerous Dogs Act 1991(**1**) and section 4(1)(c) of the Dangerous Dogs (Amendment) Act 1997(**2**).

PART 1

Preliminary

Citation, commencement and extent

1.—(1) This Order may be cited as the Dangerous Dogs Exemption Schemes (England and Wales) Order 2015 and comes into force on 3rd March 2015.

(2) This Order extends to England and Wales.

Interpretation

2. In this Order—

"the Act" means the Dangerous Dogs Act 1991;

"adult dog" means a dog aged six months or over;

"the Agency" means the person or body for the time being designated by the Secretary of State to discharge functions under this Order;

"person" means a natural person and does not include a body of persons corporate or unincorporate.

(**1**) 1991 c. 65; section 1(6A) was inserted by the Anti-social Behaviour, Crime and Policing Act 2014 (c.12), section 107.
(**2**) 1997 c.53

Payments to the Agency

3. The Secretary of State must make such payments to the Agency in respect of the discharge by the Agency of functions under this Order as are agreed between them or, in default of agreement, as appear to the Secretary of State to be appropriate.

PART 2

Court-Ordered Exemption Scheme

Exemption scheme conditions and requirements

4.—(1) The prohibition in section 1(3) of the Act shall not apply to a dog provided that—

(a) a court has determined that the dog is not a danger to public safety under section 4(1A) or 4B of the Act and has made the dog subject to a contingent destruction order under section 4A or 4B of the Act;

(b) the conditions set out in paragraph (2) are met in respect of the dog within the time period set out in paragraph (3); and

(c) the requirements attached to the certificate of exemption in accordance with article 10 are complied with throughout the lifetime of the dog.

(2) The conditions referred to in paragraph (1)(b) are that—

(a) the dog is neutered in accordance with article 6;

(b) the dog is microchipped in accordance with article 7;

(c) third-party insurance in respect of the dog is obtained in accordance with article 8; and

(d) a certificate of exemption is issued in accordance with article 9.

(3) Subject to any extension granted by the court under section 4A(2) of the Act, the conditions in articles 6 to 9 must be complied with—

(a) in the case of an adult dog, within two months beginning with the date the court makes a contingent destruction order;

(b) in the case of a dog under the age of six months on the date the court makes a contingent destruction order, within one month of the dog attaining six months.

Failure to meet the conditions or comply with the requirements

5. A dog is not exempt under this Part from the prohibition in section 1(3) of the Act—

(a) if the conditions referred to in article 4(2) are not met within the time period specified in article 4(3); or

(b) if the requirements attached to the certificate of exemption in accordance with article 10 are not complied with at any time after the certificate is issued.

Neutering

6.—(1) A dog that is to be exempted from the prohibition in section 1(3) of the Act, unless already neutered to the satisfaction of the Agency, must—

(a) in the case of a male dog, be castrated;

(b) in the case of a female dog, be spayed.

(2) A procedure required by paragraph (1) must be carried out by a veterinary surgeon.

Microchipping

7.—(1) A dog that is to be exempted from the prohibition in section 1(3) of the Act must be implanted with a microchip, unless already microchipped to the satisfaction of the Agency, by a person who—

(a) is a veterinary surgeon, or a veterinary nurse acting under the direction of a veterinary surgeon;

(b) is a student of veterinary surgery or a student veterinary nurse and in either case is acting under the direction of a veterinary surgeon; or

(c) is satisfactorily assessed on a training course approved by the Secretary of State for the purpose of implanting microchips.

(2) For the purposes of this article and article 6—

"student veterinary nurse" and "veterinary nurse" have the same meanings as in Schedule 3 to the Veterinary Surgeons Act 1966(**3**);

"student of veterinary surgery" has the same meaning as in regulation 3 of the Schedule to the Veterinary Surgeons (Practice by Students) Regulations Order of Council 1981(**4**);

"veterinary surgeon" means a person registered in the register of veterinary surgeons, or the supplementary veterinary register kept under the Veterinary Surgeons Act 1966.

Third-party insurance

8.—(1) The owner or person in charge of the dog must have in place a policy of insurance in respect of the dog that is to be exempted from the prohibition in section 1(3) of the Act throughout the dog's lifetime.

(2) Subject to such terms, conditions, limitations and exclusions as may be contained in the policy and subject to paragraph (3), the policy must insure the person specified in it ("the policyholder") in respect of the death of, or bodily injury to, any person caused by the dog.

(3) The policy need not insure in respect of the death of, or bodily injury to—

(a) a member of the policyholder's family who resides permanently with the policyholder; or

(b) a person in respect of whom the policyholder is required to maintain a policy of insurance by virtue of the Employers' Liability (Compulsory Insurance) Act 1969(**5**).

Issue of certificate of exemption

9. The Agency must issue a certificate of exemption in respect of the dog if it is satisfied that—

(a) the court, in determining that the dog is not a danger to public safety, has decided the person to whom the certificate is to be issued is a fit and proper person to be in charge of the dog and has made the dog subject to a contingent destruction order;

(b) a fee of £77.00 plus Value Added Tax has been paid to the Agency; and

(c) the conditions referred to in articles 6 to 8 have been met.

Requirements attached to certificate of exemption

10.—(1) A certificate issued under article 9 must contain requirements—

(**3**) 1966 c.36. Paragraph 6 of Schedule 3 was inserted by S.I. 1991/1412, substituted by S.I. 2002/1479 and amended by S.I. 2008/1824, paragraph 18 of the Schedule. Paragraph 7 of Schedule 3 was inserted by S.I. 2002/1479.
(**4**) S.I. 1981/988. Regulation 3 was substituted by the Schedule to S.I. 1995/2397.
(**5**) 1969 c.57

(a) to keep the dog at the same address as the person to whom the certificate is issued save for any 30 days in a 12-month period;

(b) to notify the Agency of any proposed change of address (not to include any changes of address in the 30 days mentioned in paragraph (a));

(c) to notify the Agency of the death or export of the dog;

(d) to satisfy the Agency that a policy of third-party insurance compliant with article 8 is in force;

(e) to keep the dog muzzled and on a lead when in a public place;

(f) to keep the dog in sufficiently secure conditions to prevent its escape;

(g) to provide access to the dog for the purpose of reading a microchip on request by a person specified in section 5(1) of the Act;

(h) to produce to a person specified in section 5(1) of the Act confirmation that third-party insurance compliant with article 8 is in force within five days of being requested to do so by that person;

(i) to produce to a person specified in section 5(1) of the Act the certificate issued under article 9 within five days of being requested to do so by that person.

(2) The certificate may also contain such additional requirements, including the imposition of time limits, as the Agency may reasonably require for the purpose of ensuring that the requirements of this article are met.

Arrangements between interim and court-ordered exemption schemes

11. When a dog has been released under the interim exemption scheme in Part 4 and is subsequently made subject to a contingent destruction order by the court under section 4A or 4B of the Act—

(a) the requirements set out in article 25 (additional requirements) continue to apply until a certificate of exemption is issued in accordance with article 9; and

(b) if the conditions in article 4(2) are not met within the time limits in article 4(3) the dog may be seized under section 5 of the Act with a view to its destruction in accordance with the contingent destruction order.

PART 3

Substitution of Person in Charge of Dog Exempted under Part 2

Conditions for substitution of person in charge of exempted dog

12. When a dog has been exempted from the prohibition in section 1(3) of the Act in accordance with Part 2 of this Order, a person (in this Part referred to as "the applicant") may apply to a magistrates' court to be substituted as the person in charge of the dog only if the person determined by the court under section 4(1B) or 4B(2A) of the Act or under this Part as being a fit and proper person is unable to continue to be in charge of the dog by reason of—

(a) the death of that person; or

(b) serious illness rendering that person unable to be in charge of the dog.

Procedure for application

13.—(1) The applicant must provide details in accordance with article 14 to the chief officer of police for the area in which the applicant lives at least two weeks before making an application to the court.

(2) An application must be made—

(a) to the magistrates' court in the applicant's local justice area;

(b) subject to any extension granted by the court under paragraph (5), no later than six weeks after the date—

(i) of the death of the person in charge in the case of an application pursuant to article 12(a) (death of person in charge), or

(ii) of the official letter from the medical practitioner confirming the serious illness of the person in charge ("official letter") in the case of an application pursuant to article 12(b) (serious illness of person in charge);

(c) in writing and must include evidence—

(i) of either circumstance mentioned in article 12(a) or 12(b) by way of a death certificate or an official letter from a medical practitioner (as appropriate),

(ii) that the details have been provided to the chief officer of police in accordance with paragraph (1), and

(iii) that the application has been served on the chief officer of police in accordance with paragraph (3).

(3) The applicant must serve a copy of the application made to the court on the chief officer of police to whom the information set out in article 14 has been provided.

(4) A court officer must notify the applicant and the chief officer of police on whom the application is served of the date the application is listed to be dealt with.

(5) The court may extend the time limits set out in paragraph (2)(b) on application by the applicant if satisfied there is a good reason to do so.

(6) Any failure by the applicant to comply with paragraph (2)(b) results in the dog no longer being exempt from the prohibition in section 1(3) of the Act.

Details to be given to the police

14. The applicant must provide to the chief officer of police for the area in which the applicant lives the following details—

(a) the name of the applicant;

(b) the address of the applicant;

(c) the date of birth of the applicant;

(d) details of the exempted dog; and

(e) details of the person to whom the certificate of exemption was issued in respect of the dog.

Court determination

15.—(1) The court may only grant the application for substitution of the applicant as the person in charge of an exempted dog if satisfied that the dog does not constitute a danger to public safety.

(2) In determining whether the dog constitutes a danger to public safety the court—

(a) must consider—

(i) the temperament of the dog including its past behaviour; and