



Department of the
Environment
www.doeni.gov.uk

ENVIRONMENTAL POLICY DIVISION

**CLEAN NEIGHBOURHOODS AND
ENVIRONMENT ACT (NORTHERN
IRELAND) 2011**

***CONTROLS ON DOGS (NON-APPLICATION TO
DESIGNATED LAND) ORDER (NI) 2012***

***DOG CONTROL ORDERS (PROCEDURES)
REGULATIONS (NI) 2012***

***DOG CONTROL ORDERS (PRESCRIBED
OFFENCES AND PENALTIES) REGULATIONS
(NI) 2012***

DOG CONTROL ORDERS: GUIDANCE

A CONSULTATION PAPER

CLOSING DATE – 15 June 2011

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RESPONDING TO THIS CONSULTATION

Information about this publication and further copies are available from the address below. This document is also available on the DOE website¹ and can also be made available in other formats. Please contact the Department to discuss your needs.

How To Respond

Respondents are requested to explain who they are and, in the case of representative groups, to give a summary of the people and/or organisations they represent. The Department will acknowledge receipt of each response.

Please send your responses marked 'Dog Control Orders Consultation' to:

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The closing date for responses is 15 June 2011

¹ http://www.doeni.gov.uk/clean_neighbourhoods.htm

Publication Of Responses

In line with the Department's policy of openness, at the end of the consultation period copies of the responses received may be made publicly available, upon request, from the Department. The information they contain may also be published in a summary of responses.

The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response please read the paragraphs below on the confidentiality of consultations which provide guidance on the legal position concerning any information provided by you in response to this consultation.

If you do not consent to this, you must clearly request that your response is treated confidentially. Any confidentiality disclaimer generated by your IT system in email responses will not be treated as such a request. You should also be aware that there may be circumstances in which the Department will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000² and the Environmental Information Regulations 2004³.

Freedom of Information Act 2000

The Freedom of Information Act gives the public a right of access to any information held by a public authority, in this case, the Department. This right of access to information includes information provided in response to a consultation exercise. The Department cannot automatically consider as confidential information supplied to it in the course of a consultation exercise. However, the Department does have a responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidential.

This means that information provided by you in response to this consultation will not be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act⁴ provides that:

² <http://www.legislation.gov.uk/ukpga/2000/36/contents>

³ <http://www.legislation.gov.uk/uksi/2004/3391/contents/made>

⁴ <http://www.justice.gov.uk/guidance/docs/foi-section45-code-of-practice.pdf>

- (a) The Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- (b) The Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature;
- (c) Acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner's Office.⁵

Equality Issues

Under section 75 of the Northern Ireland Act 1998⁶, public authorities have a statutory duty to promote equality of opportunity. We have completed an equality screening of the proposals and have concluded that they do not impact on equality of opportunity on any of the groups specified in section 75. A summary of the screening paper is attached as Annex C and the full screening paper will be posted on the DOE Equality Unit website⁷.

The Equality Commission will receive copies of this consultation document as part of the consultation exercise. We will take into account any comments that the Commission might have.

Human Rights Issues

The Human Rights Act 1998⁸ implements the European Convention on Human Rights. The 1998 Act makes it unlawful for any public authority to act in a way that is incompatible with these rights. We believe that the proposals in this consultation document are compatible with the Human Rights Act, but would welcome any views that you might have.

⁵ <http://www.ico.gov.uk>

⁶ <http://www.legislation.gov.uk/ukpga/1998/47/contents>

⁷ http://www.doeni.gov.uk/index/information/equality_unit.htm

⁸ <http://www.legislation.gov.uk/ukpga/1998/42/contents>

The Human Rights Commission will receive copies of the consultation document as part of this consultation. We will take into account any comments that the Commission might have.

Regulatory Impact Assessment

A regulatory impact assessment on the Clean Neighbourhoods and Environment Bill (Northern Ireland) can be accessed on the Department's website⁹. A separate regulatory impact assessment has not been produced for the draft Regulations as they have no impact on the costs of business.

Rural Proofing

It is Government policy that all Government Departments and Agencies intending to introduce a new policy should subject that policy to rural proofing. Annex D sets out the likely effects of the proposals.

⁹ http://www.doeni.gov.uk/pdf_version_of_clean_neighbourhoods_consultation_document.pdf
(pp. 134-158)

INTRODUCTION

The Department published a consultation document on the draft Clean Neighbourhoods and Environment Bill (Northern Ireland) on 1 March 2010. The consultation closed on 23 April 2010.

The Bill was passed by the Northern Ireland Assembly on 14 March 2011. The Bill will become an Act on receiving Royal Assent, which is expected in April 2011. Throughout this document references are, therefore, made to the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 or “the Act” in anticipation of the Bill receiving Royal Assent.

The Act strengthens the legislative powers available to district councils to help them deal more effectively with a range of local environmental quality problems such as dog fouling, litter, graffiti and fly posting, nuisance parking, abandoned vehicles, statutory nuisance and noise. **It is the Department’s intention to bring the Act into operation in April 2012.**

Before the Act comes into operation it will be underpinned by subordinate legislation and the Department will also be issuing a series of guidance notes to assist district councils and others to understand, and, where appropriate, make use of the new powers. This document contains this guidance in draft form in so far as it relates to dog control orders, together with draft regulations implementing provisions relating to dog control orders under Part 5 of the Act.

We welcome views on any aspect of the guidance or regulations but there are specific questions asked throughout the document to which your response would be appreciated. It would be helpful if responses could refer to the specific questions/paragraph number on which comments are being made.

CONSULTATION ISSUES

Note: It is intended to commence the new dog control arrangements in April 2012. From that date no byelaws containing any of the offences listed in regulations can be made by district councils. Given the timescale for making byelaws, district councils contemplating submitting new byelaws for approval by the Department may wish to consider waiting until the new regime is in operation and then to proceed by means of a dog control order.

Draft Guidance

1. The draft guidance can be found in Annex A to this document. It covers:
 - the Controls on Dogs (Non-application to Designated Land) Order (Northern Ireland) 2012 which designates types of land to which dog control orders will not apply;
 - the Dog Control Orders (Procedures) Regulations (Northern Ireland) 2012 which implement sections 40 and 41 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (“the Act”) by prescribing the procedures and forms for making dog control orders; and
 - the Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations (Northern Ireland) 2012 which implement sections 40 and 41 of the Act by prescribing offences and penalties to be contained in dog control orders,

together with the other sections of the Act relating to dog control orders.
2. Dog control orders replace the previous system of byelaws for the control of dogs and also the dog fouling provisions under Article 4 of the Litter (NI) Order 1994¹⁰ which is being repealed.
3. The guidance is intended for district councils who will have the powers to make dog control orders, but will also be relevant for dog owners who may be affected by them.

¹⁰ <http://www.legislation.gov.uk/nisi/1994/1896/contents>

Q1 Do you have any comments on the draft Guidance?

Draft Regulations

4. The draft Regulations for the control of dogs can be found in Annex B to this document.

Land subject to dog control orders

5. Under section 42 of the Act a dog control order can be made in respect of any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment). Section 42 gives the Department the power to designate types of land which, although they fall within the definition above, are not to be subject to all or some dog control orders. This power will be used in the Controls on Dogs (Non-application to Designated Land) Order (Northern Ireland) 2012 to designate:
 - land held by the Department of Agriculture and Rural Development for the purposes of any of its functions under the Forestry Act (Northern Ireland) 2010, in respect of all dog control orders;
 - land which is or forms part of a road, in respect of a dog control order excluding dogs from land specified in the order.

Q2 Are there any other types of land that should be excluded from dog control orders, and why?

Types of Order/Offences

6. The draft Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations (NI) 2012 provide for five offences which may be prescribed in a dog control order:
 - (a) failing to remove dog faeces;
 - (b) not keeping a dog on a lead;
 - (c) not putting, and keeping, a dog on a lead when directed to do so by an authorised officer;

- (d) permitting a dog to enter land from which dogs are excluded; and
- (e) taking more than a specified number of dogs onto land.

Defences/Exemptions

7. The Department is proposing that the following defences be included in all dog control orders:
 - (a) having a reasonable excuse for failing to comply with an order; or
 - (b) acting with the consent of the owner or occupier of the land, or of any other person or authority which has control of the land.
8. There is no specific exemption in the Regulations for working dogs, but paragraph (b) above will cover any dog that is working on land with the consent of the person in control of the land.
9. Dog control orders provide exemptions in particular cases for –
 - (a) a person who is registered as blind;
 - (b) a person who is deaf;
 - (c) a person with a disability which affects their mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects,

and who makes use of a trained assistance dog. Anyone in sub-paragraphs (a), (b) or (c) is not subject to a dog control order excluding dogs from specified land in respect of his or her assistance dog. Anyone in sub-paragraphs (a) or (c) is similarly exempt from a dog control order on the fouling of land. A person who is deaf is not exempt from such an order as their disability will not prevent him or her from being aware of and removing dog faeces. These exemptions are not relevant to the other three offences which can be the subject of dog control orders.

Q3 Is the list of assistance dogs exempted from each dog control order sufficient?

Making a Dog Control Order

10. District councils should consider how easy a dog control order will be to enforce, since failure properly to enforce could undermine the effect of an order. This is particularly the case for orders that exclude dogs completely from areas of land. These will be easier to enforce if the land is enclosed. However, such orders should not be ruled out for unenclosed land where a special case for them can be made, for example, to provide dog-free sections on beaches.

Q4 How effective will dog ban orders be on unenclosed land, and what difficulties would this present regarding enforcement?

Procedures for making a dog control order

11. Before it can make a dog control order, a district council must publish a notice describing the proposed order in a local newspaper circulating in the same area as the land to which the order would apply and invite representations on the proposal. Where practicable, a copy of the notice must also be published on the district council's website.

Q5 What other methods can councils use to communicate the effect of orders and the land to which they apply to those living outside the area; would the website of the council suffice?

Q6 Do you have any other comments on the draft Regulations?

DRAFT GUIDANCE



DOG CONTROL ORDERS

**Guidance on Sections 40 to 47 of the Clean
Neighbourhoods and Environment Act
(Northern Ireland) 2011**

THIS GUIDANCE DOCUMENT HAS BEEN DRAFTED AS IF THE CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT (NI) 2011 AND THE ASSOCIATED SUBORDINATE LEGISLATION HAVE BEEN ENACTED AND ANY REFERENCE TO A PROVISION IN THE ACT OR TO ANY SUBORDINATE LEGISLATION MADE THEREUNDER SHOULD BE TAKEN IN THAT CONTEXT.

OVERVIEW

This guidance covers:

- the Controls on Dogs (Non-application to Designated Land) Order (Northern Ireland) 2012 which designates descriptions of land to which Part 5 (Dogs) of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (“the Act”) does not apply;
- the Dog Control Orders (Procedures) Regulations (Northern Ireland) 2012 which implement sections 40 and 41 of the Act by prescribing the procedures and forms for making dog control orders,
- the Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations (Northern Ireland) 2012 which implement sections 40 and 41 of the Act by prescribing offences and penalties to be contained in dog control orders; and

together with the other sections of the Act relating to dog control orders.

Dog control orders replace the previous system of byelaws for the control of dogs and also the dog fouling provisions under Article 4 of the Litter (Northern Ireland) Order 1994 which is being repealed.

This guidance is intended for district councils as the bodies with powers to make dog control orders. It will also be relevant for dog owners who may be affected by dog control orders.

1. GENERAL PRINCIPLES

1.1 The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations 2012 (“the Offences Regulations”) provide for five offences which may be prescribed in a dog control order:

- (a) failing to remove dog faeces;
- (b) not keeping a dog on a lead;
- (c) not putting, and keeping, a dog on a lead when directed to do so by an authorised officer;
- (d) permitting a dog to enter land from which dogs are excluded; and
- (e) taking more than a specified number of dogs onto land.

1.2 The penalty for committing an offence contained in a dog control order is a maximum fine of level 3 on the standard scale (currently £1,000). Alternatively, the opportunity to pay a fixed penalty may be offered in lieu of prosecution.

1.3 District councils may make dog control orders, provided that they are satisfied that an order is justified, and they have followed the necessary procedures (see part 2). The offences are described and the forms of the orders are prescribed in the Offences Regulations, and the exact wording of the description of the offence must be used (minor variations of the wording in the other parts of an order are permissible). A dog control order may be brought into force no sooner than 14 days (or longer if preferred) after it has been made; there is no requirement for an order to be confirmed by the Department. The transitional arrangements for moving from current arrangements to the new system are described in paragraphs 1.15 – 1.18.

Land subject to dog control orders

1.4 Under section 42 of the Act a dog control order can be made in respect of any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment). As for the provisions on litter, land which is covered is treated as land ‘open to the air’ if it is open to the air on at least one side. A dog control order can therefore apply to any covered place with a significant permanent opening on at least one side,

such as a bus shelter or garage forecourt that remains open to the air at all times.

1.5 Section 42 gives the Department power to designate types of land which, although they fall within the definition above, are not to be subject to all or some dog control orders. The Controls on Dogs (Non-application to Designated Land) Order (Northern Ireland) 2012 (“the Controls on Dogs Order”) designates:

- land held by the Department of Agriculture and Rural Development for the purposes of any of its functions under the Forestry Act (Northern Ireland) 2010, in respect of all dog control orders;
- land which is or forms part of a road in respect of a dog control order excluding dogs from land specified in the order.

1.6 A “road” is defined in Article 2 of the Controls on Dogs Order as any street, carriageway, highway or roadway to which the public has access (with or without payment) and includes any part of such a road and any bridge or tunnel over or through which such a road passes. This is a wide definition, and includes not only public rights of way, including footpaths, but also ways to which the public has access by permission of the landowner, rather than by right. It therefore includes roads and footpaths through private estates provided the public has access to them.

1.7 All other land that meets the definition in section 42 (other than that exempted under the provisions described in the next paragraph) may be made subject to a dog control order (but see paragraph 2.3).

1.8 Under section 42(5) any person other than a district council with powers under a private Act to regulate land, by means of byelaws or in any other way, may give notice in writing to the district council that the land in question is to be excluded from the dog control regime (see also paragraph 1.11).

Defences/Exemptions

1.9 There are defences in all dog control orders of:

- (a) having a reasonable excuse for failing to comply with an order; or

(b) acting with the consent of the owner or occupier of the land, or of any other person or authority which has control of the land.

1.10 Under (a), no offence is committed if a person in control of a dog has a reasonable excuse for failing to comply with an order. This would include those responsible for dogs such as police dogs which are on land to investigate or prevent crime. In such cases it will be for district councils to decide whether to pursue cases where this defence is invoked; if they choose to do so it will be for the Courts to decide whether someone had a reasonable excuse for failing to comply with a dog control order. However, the prescribed Fouling of Land by Dogs Order in Schedule 1 to the Offences Regulations states specifically that being unaware of a dog's defecation, or not having a device or other suitable means of removing the faeces is not a reasonable excuse for failing to comply with the order.

1.11 Under (b) no offence is committed if a person in charge of a dog acts with the consent of the person who owns or is otherwise in control of the land. There is no specific exemption in the Offences Regulations for working dogs, but this provision will cover any dog that is working on land with the consent of the person in control of the land.

1.12 Dog control orders provide exemptions in particular cases for –

- (a) a person who is registered as blind;
- (b) a person who is deaf;
- (c) a person with a disability which affects their mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects,

and who makes use of a trained assistance dog. Anyone in sub-paragraphs (a), (b) or (c) is not subject to a dog control order excluding dogs from specified land in respect of his or her assistance dog. Anyone in sub-paragraph (a) or (c) is similarly exempt from a dog control order on the fouling of land. A person who is deaf is not exempt from such an order as their disability will not prevent him or her from being aware of and removing dog faeces. These exemptions are not relevant to the other three offences which can be the subject of dog control orders.

1.13 Both of the exemptions mentioned in the previous paragraph apply to a person whose ability to move 'everyday objects' is affected. In paragraph D24 of the 'Guidance on matters to be taken into account in determining questions relating to the definition of disability¹¹', the following items are listed to illustrate what 'everyday objects' might include: books; a kettle of water; bags of shopping; a briefcase; an overnight bag; or, a chair or other piece of light furniture.

Other Byelaw-making Powers

1.14 Powers to make byelaws affecting dogs can continue to be used but only in relation to offences that cannot be prescribed in a dog control order.

Transitional Arrangements

1.15 Section 46 of the Act sets out the provisions that apply to existing dog byelaws. Under subsection (1), from the date the Offences Regulations came into operation, no new dog byelaws can be made relating to any of the offences set out in those Regulations.

1.16 Existing byelaws remain in force indefinitely, and can continue to be enforced as normal. However, under subsection (3) if a district council makes a dog control order in respect of an offence on a specified area of land, any byelaw made by a district council dealing with the *same offence on the same land* lapses. Other byelaws, dealing with either the same offence on different land, or with different offences on the same land, are not affected.

1.17 Similarly, under subsection (4) if an action or failure to take action is an offence under a dog control order and contravenes a byelaw made by a district council, it will no longer be an offence under the byelaw.

1.18 Article 4 of the Litter (NI) Order 1994 will remain in force in relation to any of the places prescribed in The Dog Fouling (Prescription of Places) Regulations (NI) 1995 until such a time as a dog control order is made for the same land. This means that prosecutions can continue to be brought and fixed penalty

¹¹ <http://www.ofmdfmi.gov.uk/disabilitydiscriminationact1995.pdf>

notices can continue to be issued for dog fouling offences in places prescribed under Article 4 but the fixed penalties will remain at £50. However, if any type of dog control order is made that applies to land already subject to Article 4, that Article ceases to have effect in respect of the land subject to the dog control order.

- 1.19 For example, if a district council makes any type of dog control order in respect of a park, Article 4 will cease to apply in respect of the park, but will continue to have effect in the rest of the district.

2. MAKING A DOG CONTROL ORDER

- 2.1 The procedure for making a dog control order is set out in regulation 3 of the Dog Control Orders (Procedures) Regulations (Northern Ireland) 2012 (“the Procedures Regulations”). **It is important that this procedure is adhered to, since a failure to do so will invalidate the order.** It is also important for any district council considering a dog control order to be able to show that this is a necessary and proportionate response to problems caused by the activities of dogs and those in charge of them.
- 2.2 The council needs to balance the interests of those in charge of dogs against the interests of those affected by the activities of dogs, bearing in mind the need for people, in particular children, to have access to dog-free areas and areas where dogs are kept under strict control, and the need for those in charge of dogs to have access to areas where they can exercise their dogs without undue restrictions. A failure to give due consideration to these factors could make any subsequent dog control order vulnerable to challenge in the Courts.
- 2.3 District councils should also consider how easy a dog control order would be to enforce, since failure to enforce properly could undermine the effect of an order. This is particularly the case for orders that exclude dogs completely from areas of land. These will be easier to enforce if the land is enclosed. However, such orders should not be ruled out for unenclosed land where a special case for them can be made, for example to provide dog-free sections on beaches.

Procedures for making a Dog Control Order

2.4 The Procedures Regulations require that before it can make a dog control order, a district council must publish a notice describing the proposed order in a local newspaper circulating in the same area as the land to which the order would apply and invite representations on the proposal. The notice must:

- (a) identify the land to which the order will apply;
- (b) summarise the order;
- (c) if the order will refer to a map, say where the map can be inspected. This must be at an address in the district council's area, be free of charge, and at all reasonable hours during the consultation period;
- (d) give the address to which, and the date by which, representations must be sent to the district council. The final date for representation must be at least 28 days after the publication of the notice.

2.5 At the end of the consultation period the council must consider any representations that have been made. If it then decides to proceed with the order, it must decide when the order will come into force. This must be at least 14 days from the date on which it was made.

2.6 Once an order has been made the council must, at least 7 days before it comes into force, publish a notice in a local newspaper circulating in the same area as the land to which the order applies stating:

- (a) that the order has been made; and
- (b) where the order may be inspected and copies of it obtained.

Where practicable, a copy of the notice must also be published on the council's website.

2.7 If, after considering representations on a proposal to make an order a council decides significantly to amend its proposal, it must start the procedure again, publishing a new notice describing the amended proposal.

Amendments

2.8 Amendments to existing dog control orders must be in the form set out in Schedule 6 to the Offences Regulations (minor variables are permissible) and must be advertised, and brought into force in the same way as a new order.

Revocation

2.9 District councils proposing to revoke an existing dog control order must place a notice in a newspaper circulating in the area in which the order applies inviting representations in response to the proposal (see regulation 4 of the Procedures Regulations). The notice must:

- (a) identify the land to which the order currently applies;
- (b) summarise the order;
- (c) state that representations may be made in writing or by e-mail within 28 days of the publication of the notice, and the address and e-mail address to which representations may be sent.

2.10 Councils must consider any representations made within the period stated in the notice. Should the council decide to go ahead and revoke the order, another notice must be published to notify the public of the decision and what date the revocation will have effect, which cannot be before the date on which the final notice is published. Councils should also make information about the revoked order available on its website (where available).

Erecting signage

2.11 Regulation 3(3)(a) of the Procedures Regulations provides the legal requirement that, where practicable, signs must be placed summarising the order on land to which a new order applies, thereby informing the public that the land is subject to an order. For example, if an order were made excluding dogs from a park, copies of the order should be placed at the entrances to the park when it was first made, and permanent signs should be erected informing the public that dogs are not permitted in the park. Where a dog control order applies to a large area of land,

for example, an order in respect of fouling by dogs, it may not be feasible to post copies of the order on the land, but signs warning the public that it is an offence not to clear up dog faeces should be placed at regular intervals.

2.12 Where orders are made that apply only at certain times of the day or year, any signs provided to summarise the effect of an order should also make clear the periods in which the dog control order will apply.

Setting the maximum number of dogs

2.13 When setting the maximum number of dogs that one person can take onto land, the most important factor for district councils to consider is the maximum number of dogs which a person can control; expert advice is that this should not exceed six. Councils should also take into account the views of dog owning and non-dog owning residents within the area to which the order will apply to establish what they consider to be an appropriate maximum number taking into account all the circumstances in the area. A key factor here will be whether children frequently use the area.

3. FIXED PENALTY NOTICES

Note: This section covers the basic principles of fixed penalty notices for dog control orders and outlines changes introduced by the Act. However, detailed information on their use will be provided in the Department's separate guidance on fixed penalties and district councils would be advised to consult this guidance when using the fixed penalty notice provisions.

3.1 For district councils, the general principles that apply to the issue of fixed penalty notices apply equally to notices issued for offences under dog control orders. Fixed penalties for offences under dog control orders may be issued by authorised officers under section 43(1) and (2) of the Act. "Authorised officers" are defined in section 43(11) as:

- employees of a district council who are authorised for this purpose

- any person authorised (including employees of that person) in writing by a district council in pursuance of arrangements made by that person and the relevant council
- 3.2 In connection with dog control order offences, authorised officers of district councils have the power to require the name and address of a person they wish to issue with a fixed penalty notice. In such cases failure to supply these details or to give a false name and address to an authorised officer is an offence for which a maximum fine of level 3 on the standard scale (currently £1,000) may be given upon conviction.
- 3.3 Section 47 of the Act also enables an authorised officer of a district council to serve a notice on any person requiring that person to supply any information which the council reasonably considers it needs for the purposes of any of its functions under Part 5. In such cases failure to supply these details is an offence for which a maximum fine of level 4 on the standard scale (currently £2,500) may be given upon conviction.

THE DRAFT REGULATIONS

THE FOLLOWING ORDER AND REGULATIONS HAVE BEEN DRAFTED AS IF THE CLEAN NEIGHBOURHOODS AND ENVIRONMENT ACT (NI) 2011 HAS BEEN ENACTED AND ANY REFERENCE TO A PROVISION IN THE ACT SHOULD BE TAKEN IN THAT CONTEXT.

[D R A F T] S T A T U T O R Y R U L E S O F N O R T H E R N
I R E L A N D

2012 No.[]

DOGS

CONTROL OF DOGS

**The Controls on Dogs (Non-application to Designated Land)
Order (Northern Ireland) 2012**

Made - - - - []

Coming into operation- - []

The Department of the Environment makes the following Order in exercise of the powers conferred by section 42(3) of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011⁽¹²⁾.

Citation and commencement

1. This Order may be cited as the Controls on Dogs (Non-application to Designated Land) Order (Northern Ireland) 2012 and shall come into operation on [].

Interpretation

2. In this Order—

“the Act” means the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011;

“land” means any land which is open to the air and to which the public is entitled or permitted to have access (with or without payment), and any land which is covered is to be treated as “open to the air” if it is open on at least one side;

⁽¹²⁾ 2011 c.[] (N.I.)

“road” means any street, carriageway, highway or roadway to which the public has access (with or without payment) and includes any part of such a road and any bridge or tunnel over or through which such a road passes.

Land to which Part 5 of the Act does not apply

3. Any land that falls within a description in the first column of the table in the Schedule is designated as land to which Part 5 of the Act (Dogs) does not apply, for the purposes specified in relation to the particular description in the second column of that table.

Sealed with the Official Seal of the Department of the Environment on [].



A senior officer of the Department of the Environment

SCHEDULE

Article 3

LAND TO WHICH PART 5 OF THE ACT DOES NOT APPLY

<i>Description of land</i>	<i>Purposes for which Part 5 of the Act does not apply</i>
Land held by the Department of Agriculture and Rural Development for the purposes of any of its functions under the Forestry Act (Northern Ireland) 2010 ⁽¹³⁾	For the purpose of making a dog control order under section 40(1) of the Act
Land which is or forms part of a road	For the purpose of making a dog control order under section 40(1) of the Act which provides for an offence relating to the matter described in section 40(3)(c) (the exclusion of dogs from land)

⁽¹³⁾ 2010 c. 10 (N.I.)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates descriptions of land to which Part 5 (Dogs) of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (“the Act”) does not apply (*Article 3*), for the purposes specified in relation to each description.

Two descriptions of land are designated in this Order. They are—

- (i) any land held by the Department of Agriculture and Rural Development for the purposes of any of its functions under the Forestry Act (Northern Ireland) 2010, in respect of the making of any dog control order under section 40(1) of the Act, and
- (ii) any land which is or forms part of a road, in respect of the making of a dog control order under section 40(1) of the Act which provides for an offence relating to the matter described in section 40(3)(c) (the exclusion of dogs from land) (*Article 3 and the Schedule*).

A regulatory impact assessment of the effect of the then Clean Neighbourhoods and Environment Bill (Northern Ireland) was prepared (dog control orders are dealt with on pp.15 to 16); copies of it are available from the Department of the Environment, Goodwood House, 44–58 May Street, Belfast BT1 4NN. A separate regulatory impact assessment has not been produced for this Order as it has no impact on the cost to business.

2012 No. []

DOGS

CONTROL OF DOGS

**The Dog Control Orders (Procedures) Regulations (Northern
Ireland) 2012**

Made - - - - []

Coming into operation- - []

The Department of the Environment makes the following Regulations in exercise of the powers conferred by section 41(4) of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011⁽¹⁴⁾.

Citation and commencement

1. These Regulations may be cited as the Dog Control Orders (Procedures) Regulations (Northern Ireland) 2012 and shall come into operation on [].

Interpretation

2. In these Regulations “the Act” means the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011.

Procedures before and after making, or amending, a dog control order

- 3.—(1) Before making a dog control order under section 40 of the Act, a district council—
- (a) shall consult upon its proposal to make the order by publishing a notice of that proposal in a local newspaper circulating in the area to which the order applies is situated; and
 - (b) shall not make the order before the expiration of 28 days from the date on which notice of the proposal is first published in a newspaper in pursuance of sub-paragraph (a).
- (2) The notice referred to in paragraph (1) shall—
- (a) identify the land in respect of which the order is to apply;
 - (b) summarise the order;
 - (c) where the order refers to a map, state where the map may be inspected at an address within the district council’s area, and that any inspection shall be free of charge at all reasonable hours during the period mentioned in sub-paragraph (d);

⁽¹⁴⁾ 2011 c.[] (N.I.)

- (d) state the period within which representations may be made in writing or by e-mail, such period being not less than 28 days after the publication of the notice; and
 - (e) state the address and e-mail address to which representations may be sent.
- (3) After making a dog control order, a district council shall, not less than seven days before the day on which the order is to come into force—
- (a) where practicable, place signs summarising the order in conspicuous positions on or near the land in respect of which it applies;
 - (b) publish, in a local newspaper circulating in the area in which the land in respect of which the order applies is situated, a notice that the order has been made and stating the place at which it may be inspected and copies of it obtained; and
 - (c) make the information referred to in sub-paragraph (b) available on its website (if any).
- (4) This regulation shall apply to the amendment of a dog control order as if references to its making were to its being amended.

Revocation of a dog control order

- 4.—(1) Before revoking a dog control order it has made, a district council—
- (a) shall consult upon its proposal to revoke the order by publishing a notice of that proposal in a local newspaper circulating in the area in which the land to which the order applies is situated; and
 - (b) shall not make the decision to revoke before the expiration of 28 days from the date on which notice of the proposal is first published in a newspaper in pursuance of sub-paragraph (a).
- (2) The notice referred to in paragraph (1) shall—
- (a) identify the land in respect of which the order applies;
 - (b) summarise the order;
 - (c) where the order refers to a map, state where the map may be inspected at an address within the district council's area, and that any inspection shall be free of charge at all reasonable hours during the period mentioned in sub-paragraph (d);
 - (d) state that representations may be made in writing or by e-mail within the period of 28 days after the publication of the notice; and
 - (e) state the address and e-mail address to which representations may be sent.
- (3) If a district council decides to revoke a dog control order it shall—
- (a) publish a notice of that decision in a local newspaper circulating in the area in which the land in respect of which the order to be revoked is situated, and specifying the date (which shall not be earlier than the date on which the notice is published) on which the revocation is to have effect; and
 - (b) make the information referred to in sub-paragraph (a) available on its website (if any).

Sealed with the Official Seal of the Department of the Environment on [].



A senior officer of the Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Regulations prescribe the procedures to be observed by a district council in making a dog control order (an “order”) under section 40 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011, or when amending or revoking such an order. (The offences and penalties capable of being included in, and model forms to be followed when making, a dog control order are prescribed in the Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations (Northern Ireland) 2011 (S.R. 2011 No. [])

The Regulations prescribe that before making an order a district council shall consult on its proposal by publishing a notice in a newspaper circulating in the area in which the land to which the order would apply is situated (*regulation 3(1)*). The required contents of the newspaper notice are prescribed in *regulation 3(2)*.

The Regulations require a district council to publicise the making and effect of an order before it comes into force (*regulation 3(3)*).

The Regulations apply the same consultation and information requirements to the making of any amendment to an order (*regulation 3(4)*).

The Regulations also prescribe similar consultation and information requirements for the revocation of an order (*regulation 4*).

A regulatory impact assessment of the effect of the then Clean Neighbourhoods and Environment Bill (Northern Ireland) was prepared (dog control orders are dealt with on pp.15 to 16); copies of it are available from the Department of the Environment, Goodwood House, 44–58 May Street, Belfast BT1 4NN. A separate regulatory impact assessment has not been produced for these Regulations as they have no impact on the cost to business.

[D R A F T] S T A T U T O R Y R U L E S O F N O R T H E R N
I R E L A N D

2012 No. []

DOGS

CONTROL OF DOGS

**The Dog Control Orders (Prescribed Offences and Penalties,
etc.) Regulations (Northern Ireland) 2012**

Made - - - - []

Coming into operation in accordance with regulation 1

The Department of the Environment makes the following Regulations in exercise of the powers conferred by section 40(4) and 41(1) and (3) of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011⁽¹⁵⁾.

Citation and commencement

1. These Regulations may be cited as the Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations (Northern Ireland) 2012 and shall come into operation on the day after the day on which they are made.

Interpretation

2. In these Regulations “the Act” means the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011.

Prescribed offences and penalties

3.—(1) For the purposes of section 40(4) of the Act, the offences capable of being provided for in a dog control order are those set out in paragraph 1 of each of Schedules 1 to 5.

(2) The penalty to be provided in relation to any offence in a dog control order is, on summary conviction, a fine not exceeding level 3 on the standard scale.

(3) A dog control order may specify the times at which, or the periods during which, an offence is to apply.

Specified wording to be used in, and the form of, a dog control order

4. A district council which makes a dog control order shall—

⁽¹⁵⁾ 2011 c.[] (N.I.)

- (a) in providing for any offence, use the wording specified in the Schedule applying to that offence (under the heading “offence”); and
- (b) in all other respects make the order in the form set out in the said Schedule, or in a form substantially to the like effect.

Amendment of a dog control order

5. A district council which amends a dog control order it has made shall do so in accordance with Schedule 6.

Coming into force of a dog control order

6. The date of coming into force of a dog control order (including an order amending a dog control order) shall be at least 14 days after the date on which the order is made.

Sealed with the Official Seal of the Department of the Environment on



A senior officer of the Department of the Environment

SCHEDULE 1 Regulations 3 and 4

OFFENCE OF FAILING TO REMOVE DOG FAECES

and

FORM OF ORDER

1.—(1) Subject to sub-paragraphs (2) and (3), it is an offence when being in charge of a dog on land to which a dog control order (described as a “Fouling of Land by Dogs Order” in the form set out below) applies, not to remove faeces deposited by the dog at any time, or at any time during certain periods prescribed in the order.

(2) No offence is committed where a person has a reasonable excuse for failing to remove the faeces, or the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

(3) The offence does not apply to a person who:

- (i) is registered as blind in Northern Ireland in a register maintained by or on behalf of a health and social services trust;
- (ii) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
- (iii) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by Dogs for the Disabled (registered charity number 700454), Support Dogs (registered charity number 1088281) or Canine Partners for Independence (registered charity number 803680) and upon which he relies for assistance.

2. In any Fouling of Land by Dogs Order, the offence of failing to remove dog faeces is to be set out in full as stated in article 3 in the form of order given below.

3. In all other respects, a Fouling of Land by Dogs Order providing for that offence is to be in the form given below, or in a form substantially to the like effect.

Form of Order

The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations
(Northern Ireland) 2012 (S.R. 2012 No. [])

The Fouling of Land by Dogs ([X]⁽¹⁶⁾) Order [X]⁽¹⁷⁾

[X]⁽¹⁸⁾ hereby makes the following Order:

1. This Order comes into operation on [X]⁽¹⁹⁾.
2. This Order applies to the land specified in [the Schedule] [Schedule 1]⁽²⁰⁾.

Offence

3.—(1) If a dog defecates [at any time] [during the periods specified in Schedule 2]⁽²¹⁾ on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless—

- (a) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

(2) Nothing in this article applies to a person who—

- (a) is registered as blind in Northern Ireland in a register maintained by, or on behalf of, a health and social services trust;
- (b) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
- (c) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.

(3) For the purposes of this article—

- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
- (b) placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land;
- (c) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;
- (d) each of the following is a “prescribed charity”—
 - (i) Dogs for the Disabled (registered charity number 700454);
 - (ii) Support Dogs (registered charity number 1088281);
 - (iii) Canine Partners for Independence (registered charity number 803680).

⁽¹⁶⁾ Identify, specifically or generally, the land in respect of which the Order applies.

⁽¹⁷⁾ Insert year in which Order is made.

⁽¹⁸⁾ Insert name of district council making the Order.

⁽¹⁹⁾ Insert date Order comes into force, being at least 14 days after the making of the Order.

⁽²⁰⁾ Specify whichever is the case.

⁽²¹⁾ Specify periods if the Order is to apply only during certain periods of the year.

Penalty

4. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[Date]

[Attestation clause]

[SCHEDULE][SCHEDULE 1]⁽²²⁾

[Specification/description of land, or lands, to which the Order applies]⁽²³⁾

[SCHEDULE 2]

[Specification of times or periods during which the offence is to apply]⁽²⁴⁾

SCHEDULE 2 Regulations 3 and 4

OFFENCE OF NOT KEEPING A DOG ON A LEAD

and

FORM OF ORDER

1.—(1) Subject to sub-paragraph (2), it is an offence when being in charge of a dog on land to which a dog control order (described as a “Dogs on Leads Order” in the form set out below) applies, not to keep the dog on a lead or on a lead of a maximum length prescribed in the order, during such times or periods as may be prescribed.

(2) No offence is committed where a person has a reasonable excuse for failing to keep the dog on a lead, or the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

2. In any Dogs on Leads Order, the offence of not keeping a dog on a lead is to be set out in full as stated in article 3 in the form of the order given below.

3. In all other respects, a Dogs on Leads Order providing for that offence is to be in the form given below, or in a form substantially to the like effect.

Form of Order

The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations
(Northern Ireland) 2012 (S.R. 2012 No. [])

The Dogs on Leads ([X]⁽²⁵⁾) Order [X]⁽²⁶⁾

[X]⁽²⁷⁾ hereby makes the following Order:

1. This Order comes into operation on [X]⁽²⁸⁾.

⁽²²⁾ Specify whichever is the case.

⁽²³⁾ Identify, either specifically or by description, the land to which the Order applies.

⁽²⁴⁾ If applicable, include Schedule 2 specifying times or periods.

⁽²⁵⁾ Identify, specifically or generally, the land in respect of which the Order applies.

⁽²⁶⁾ Insert year in which Order is made.

⁽²⁷⁾ Insert name of district council making the Order.

2. This Order applies to the land specified in [the Schedule] [Schedule 1]⁽²⁹⁾.

Offence

3.—(1) A person in charge of a dog shall be guilty of an offence if, [at any time][during the [times][periods] [specified in Schedule 2] (³⁰), on any land to which this Order applies he does not keep the dog on a lead [of not more than [X feet/inches] in length]]⁽³¹⁾, unless—

- (a) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

(2) For the purposes of this article a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

Penalty

4. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[Date]

[Attestation clause]

[SCHEDULE][SCHEDULE 1]⁽³²⁾

[Specification/description of land, or lands, to which the Order applies]⁽³³⁾

[SCHEDULE 2]

[Specification of times or periods during which the offence is to apply]⁽³⁴⁾

SCHEDULE 3

Regulations 3 and 4

OFFENCE OF NOT PUTTING AND KEEPING A DOG ON A LEAD, UNDER DIRECTION

and

FORM OF ORDER

1.—(1) Subject to sub-paragraph (2), it is an offence when being in charge of a dog on land to which a dog control order (described as a “Dogs on Leads by Direction Order” in the form set out below) applies, not to put, and thereafter keep, the dog on a lead or on a lead of a maximum length prescribed in the order, during such times or periods as may be prescribed, when directed to do so by an authorised officer of a district council.

(2) No offence is committed where a person has a reasonable excuse for failing to comply with a direction to put and keep the dog on a lead, or the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

⁽²⁸⁾ Insert date Order comes into force, being at least 14 days after making of the Order.

⁽²⁹⁾ Specify whichever is the case.

⁽³⁰⁾ Specify whichever of the options in square brackets is to apply.

⁽³¹⁾ If this is to be specified, insert maximum length of lead.

⁽³²⁾ Specify whichever is the case.

⁽³³⁾ Identify, either specifically or by description, the land to which the Order applies.

⁽³⁴⁾ If applicable, include Schedule 2 specifying times or periods.

2. In any Dogs on Leads by Direction Order, the offence of not putting and keeping a dog on a lead, by direction, is to be set out in full as stated in article 4 in the form of the order given below.

3. In all other respects, a Dogs on Leads by Direction Order providing for that offence is to be in the form given below, or in a form substantially to the like effect.

Form of Order

The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations
(Northern Ireland) 2012 (S.R. 2012 No. [])

The Dogs on Leads by Direction ([X]⁽³⁵⁾) Order [X]⁽³⁶⁾

[X]⁽³⁷⁾ hereby makes the following Order:

1. This Order comes into operation on [X]⁽³⁸⁾.
2. This Order applies to the land specified in [the Schedule] [Schedule 1]⁽³⁹⁾.

3. In this Order “an authorised officer of a district council” means an employee of the district council who is authorised in writing by the district council for the purpose of giving directions under this Order.

Offence

4.—(1) A person in charge of a dog shall be guilty of an offence if, [at any time][during the [times][periods] specified in Schedule 2]⁽⁴⁰⁾, on any land to which this Order applies, he does not comply with a direction given to him by an authorised officer of the district council to put and keep the dog on a lead [of not more than [X feet/inches] in length]⁽⁴¹⁾, unless—

- (a) he has a reasonable excuse for failing to do so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.

(2) For the purposes of this article—

- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
- (b) an authorised officer of the district council may only give a direction under this Order to put and keep a dog on a lead if such restraint is reasonably necessary to prevent a nuisance or behaviour by the dog likely to cause annoyance or disturbance to any other person on any land to which this Order applies or the worrying or disturbance of any animal or bird.

Penalty

5. A person who is guilty of an offence under article 4 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

⁽³⁵⁾ Identify, specifically or generally, the land in respect of which the Order applies.

⁽³⁶⁾ Insert year in which Order is made.

⁽³⁷⁾ Insert name of district council making the Order.

⁽³⁸⁾ Insert date Order comes into force, being at least 14 days after the making of the Order.

⁽³⁹⁾ Specify whichever is the case.

⁽⁴⁰⁾ Specify whichever of the options in square brackets is to apply.

⁽⁴¹⁾ If this is to be specified, insert maximum length of lead.

[Date]

[Attestation clause]

[SCHEDULE][SCHEDULE 1]⁽⁴²⁾

[Specification/description of land, or lands, to which the Order applies]⁽⁴³⁾

[SCHEDULE 2]

[Specification of times or periods during which the offence is to apply]⁽⁴⁴⁾

SCHEDULE 4

Regulations 3 and 4

OFFENCE OF PERMITTING A DOG TO ENTER LAND FROM WHICH IT IS EXCLUDED

and

FORM OF ORDER

1.—(1) Subject to sub-paragraphs (2) and (3), it is an offence when being in charge of a dog on land to which a dog control order (described as a “Dogs Exclusion Order” in the form set out below) applies, during such times or periods as may be specified in the order, to take the dog onto, or to permit it to enter or to remain on, such land.

(2) No offence is committed where a person has a reasonable excuse for taking the dog onto, or permitting it to enter or remain on, the land, or the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.

(3) The offence does not apply to a person who:

- (a) is registered as blind in Northern Ireland in a register maintained by or on behalf of a health and social services trust;
- (b) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948;
- (c) is deaf in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358),
- (d) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by Dogs for the Disabled (registered charity number 700454), Support Dogs (registered charity number 1088281) or Canine Partners for Independence (registered charity number 803680) and upon which he relies for assistance.

2. In any Dogs Exclusion Order, the offence of taking a dog onto, or permitting it to enter or to remain on, land from which it is excluded is to be set out in full as stated in article 3 in the form of the order given below.

3. In all other respects, a Dogs Exclusion Order providing for that offence is to be in the form given below, or in a form substantially to the like effect.

Form of Order

⁽⁴²⁾ Specify whichever is the case.

⁽⁴³⁾ Identify, either specifically or by description, the land to which the Order applies.

⁽⁴⁴⁾ If applicable, include Schedule 2 specifying times or periods.

The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011
The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations
(Northern Ireland) 2012 (S.R. 2012 No. [])

The Dogs Exclusion ([X]⁽⁴⁵⁾) Order [X]⁽⁴⁶⁾

[X]⁽⁴⁷⁾ hereby makes the following Order:

1. This Order comes into operation on [X]⁽⁴⁸⁾.
2. This Order applies to the land specified in [the Schedule] [Schedule 1]⁽⁴⁹⁾.

Offence

3.—(1) A person in charge of a dog shall be guilty of an offence if, [at any time][during the [times][periods] specified in Schedule 2]⁽⁵⁰⁾, he takes the dog onto, or permits the dog to enter or to remain on, any land to which this Order applies unless—

- (a) he has a reasonable excuse for doing so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.
- (2) Nothing in this article applies to a person who—
- (a) is registered as blind in Northern Ireland in a register maintained by or on behalf of a health and social services trust;
 - (b) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948;
 - (c) is deaf, in respect of a dog trained by Hearing Dogs for Deaf People (registered charity number 293358) and upon which he relies for assistance; or
 - (d) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.
- (3) For the purposes of this article—
- (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog; and
 - (b) each of the following is a “prescribed charity”—
 - (i) Dogs for the Disabled (registered charity number 700454);
 - (ii) Support Dogs (registered charity number 1088281);
 - (iii) Canine Partners for Independence (registered charity number 803680).

Penalty

4. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[Date]

[Attestation clause]

⁽⁴⁵⁾ Identify, either specifically or by description, the land to which the Order applies.

⁽⁴⁶⁾ Insert year in which Order is made.

⁽⁴⁷⁾ Insert name of district council making the Order.

⁽⁴⁸⁾ Insert date Order comes into force, being at least 14 days after making of the Order.

⁽⁴⁹⁾ Specify whichever is the case.

⁽⁵⁰⁾ Specify whichever of the options in square brackets is to apply.

[SCHEDULE][SCHEDULE 1]⁽⁵¹⁾
[Specification/description of land, or lands, to which the Order applies]⁽⁵²⁾

[SCHEDULE 2]
[Specification of times or periods during which the offence is to apply]⁽⁵³⁾

Regulations 3 and 4

SCHEDULE 5
OFFENCE OF TAKING MORE THAN A SPECIFIED NUMBER OF
DOGS ONTO LAND
and
FORM OF ORDER

1.—(1) Subject to sub-paragraph (2), it is an offence when being in charge of more than one dog on land to which a dog control order (described as a “Dogs (Specified Maximum) Order” in the form set out below) applies, during such times or periods as may be specified in the order, to take more than the maximum number of dogs specified in the order onto that land.

(2) No offence is committed where a person has a reasonable excuse for taking more than the specified maximum number of dogs onto the land, or the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.

2. In any Dogs (Specified Maximum) Order, the offence of taking more than a specified number of dogs onto land is to be set out in full as stated in article 4 in the form of order given below.

3. In all other respects, a Dogs (Specified Maximum) Order providing for that offence is to be in the form given below, or in a form substantially to the like effect.

Form of Order

The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations
(Northern Ireland) 2012 (S.R. 2012 No. [])

The Dogs (Specified Maximum) ([X]⁽⁵⁴⁾) Order [X]⁽⁵⁵⁾

[X]⁽⁵⁶⁾ hereby makes the following Order:

- 1.** This Order comes into operation on [X]⁽⁵⁷⁾.
- 2.** This Order applies to the land specified in [the Schedule] [Schedule 1]⁽⁵⁸⁾.

⁽⁵¹⁾ Specify whichever is the case.

⁽⁵²⁾ Identify, either specifically or by description, the land to which the Order applies.

⁽⁵³⁾ If applicable, include Schedule 2 specifying times or periods.

⁽⁵⁴⁾ Identify, either specifically or by description, the land to which the Order applies.

⁽⁵⁵⁾ Insert year in which Order is made.

⁽⁵⁶⁾ Insert name of district council making the Order.

⁽⁵⁷⁾ Insert date Order comes into force, being at least 14 days after making of the Order.

⁽⁵⁸⁾ Specify whichever is the case.

3. On land to which this Order applies, the maximum number of dogs which a person may take onto that land is [X]⁽⁵⁹⁾.

Offence

4.—(1) A person in charge of more than one dog shall be guilty of an offence if, [at any time][during the [times][periods] specified in Schedule 2]⁽⁶⁰⁾, he takes onto any land in respect of which this Order applies more than the maximum number of dogs specified in article 3 of this Order, unless—

- (a) he has a reasonable excuse for doing so; or
- (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his doing so.

(2) For the purposes of this article a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog.

Penalty

5. A person who is guilty of an offence under article 4 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

[Date]

[Attestation clause]

[SCHEDULE][SCHEDULE 1]⁽⁶¹⁾

[Specification/description of land, or lands, to which the Order applies]⁽⁶²⁾

[SCHEDULE 2]

[Specification of times or periods during which the offence is to apply]⁽⁶³⁾

SCHEDULE 6

Regulation 5

FORM OF ORDER AMENDING A DOG CONTROL ORDER

1. An order amending a dog control order shall be in the form given below, or in a form substantially to the like effect.

2. Where the amendment is to the description of an offence, the amendment shall be made by substituting the entire article which sets out the offence, and the substituted article shall set out the offence as it is required to be stated were it contained in a newly made dog control order.

Form of Order

The Clean Neighbourhoods and Environment Act (Northern Ireland) 2011
The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations
(Northern Ireland) 2012 (S.R. 2012 No. [])

The [X]⁽⁶⁴⁾ (Amendment) Order [X]⁽⁶⁵⁾

⁽⁵⁹⁾ Insert desired maximum number.

⁽⁶⁰⁾ Specify whichever of the options in square brackets is to apply.

⁽⁶¹⁾ Specify whichever is the case.

⁽⁶²⁾ Identify, either specifically or by description, the land to which the Order applies.

⁽⁶³⁾ If applicable, include Schedule 2 specifying times or periods.

[X]⁽⁶⁶⁾ hereby makes the following Order:

3. This Order comes into operation on [X]⁽⁶⁷⁾.

4. The [X]⁽⁶⁸⁾ is amended as follows:

[insert amendments to be made]⁽⁶⁹⁾.

⁽⁶⁴⁾ Insert full title (including year) of the Order to be amended.

⁽⁶⁵⁾ Insert year in which amending Order is made.

⁽⁶⁶⁾ Insert name of district council making the Order.

⁽⁶⁷⁾ Insert date Order comes into operation, being at least 14 days after making of the Order.

⁽⁶⁸⁾ Insert full title (including year) of the Order to be amended.

⁽⁶⁹⁾ For example: “[Paragraph X of] article [X] is replaced by the following [paragraph/article]:...”; “after the words [X] insert the following words: “[X]””; “for the words “[X]”, substitute the words “[X]””, etc.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Further to Part 5 (dogs) (in particular, sections 40 to 42) of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (“the Act”), under which district councils are empowered to make dog control orders, these Regulations prescribe for the purposes of section 40 of the Act the offences that may be provided for in any such order (*regulation 3(1) and Schedules 1 to 5*).

The offences are:

- (a) failing to remove faeces deposited by a dog on land in respect of which a Fouling of Land by Dogs Order applies (*Schedule 1, paragraph 1*);
- (b) failing to keep a dog on a lead on land in respect of which a Dogs on Leads Order applies (*Schedule 2, paragraph 1*);
- (c) failing to put, and to keep, a dog on a lead, when directed to do so by an authorised officer, on land in respect of which a Dogs on Leads by Direction Order applies (*Schedule 3, paragraph 1*);
- (d) permitting a dog to enter land in respect of which a Dogs Exclusion Order applies (*Schedule 4, paragraph 1*); and
- (e) taking more than the maximum number of dogs onto land in respect of which a Dogs (Specified Maximum) Order applies (*Schedule 5, paragraph 1*),

in each case without reasonable excuse or without the consent of the owner, occupier or other person or authority who has control of the land. The offences of failing to remove dog faeces and of permitting a dog to enter land from which dogs are excluded do not apply to a person who is registered as a blind person or to a person who has a disability in respect of which he relies on the assistance of a dog trained by a prescribed charity; the offence of permitting a dog to enter land from which dogs are excluded also does not apply to a person who is deaf in respect of a dog trained by a prescribed charity.

The Regulations also prescribe, in fulfilment of the requirement in section 41(1) of the Act, the maximum penalty which may be provided for in a dog control order (*regulation 3(2)*); this shall be, on summary conviction, a fine not exceeding level 3 on the standard scale (that is, at the time of making these Regulations, £1,000).

In respect of the content and form of a dog control order, the Regulations specify the wording that must be used in providing for an offence in such an order (*regulation 4(a), and in paragraph 2 of Schedules 1 to 5*), and in all other respects require that a dog control order (including an order amending a dog control order) shall be in the form set out in the appropriate Schedule, or in a form substantially to the like effect as that form (*regulation 4(b), and in paragraph 3 of Schedules 1 to 5; in respect of an amending order, regulation 5 and Schedule 6, paragraph 1*).

A regulatory impact assessment of the effect of the then Clean Neighbourhoods and Environment Bill (Northern Ireland) was prepared (dog control orders are dealt with on pp.15 to 16); copies of it are available from the Department of the Environment, House, 44–58 May Street, Belfast BT1 4NN. A separate regulatory impact assessment has not been produced for these Regulations as they have no impact on the cost to business.

EQUALITY SCREENING

Background

Under section 75 of the Northern Ireland Act 1998, the Department is required to have due regard to the need to promote equality of opportunity between:

- persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- men and women generally;
- persons with a disability and persons without; and
- persons with dependants and persons without.

In addition, without prejudice to its obligations above, the Department is also required, in carrying out its functions relating to Northern Ireland, to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group.

Screening Analysis

The purpose of this exercise is to assess whether or not the Department's proposals to replace the current dog byelaw system with a new dog control order regime may or may not have a differential impact on any of the section 75 categories. It has been performed in accordance with the Department's Equality Scheme approved in 2001. It is based upon the criteria contained in the guidance for performing the 'screening' to identify if any of the nine categories of groups identified in section 75 might be affected by the policy proposals (religion, political opinion, race, age, marital status, gender, sexual orientation, disability, dependants).

The screening analysis is summarised below.

1. Is there any indication or evidence of higher or lower participation or uptake by different groups within any of the nine categories?

NO

2. Is there any indication or evidence that any of the section 75 categories have different needs, experiences, issues and priorities in relation to this policy issue?

YES

The Department has developed the policy to take into account the needs of those with disabilities who rely on assistance dogs by providing exemptions from certain dog control orders in such cases.

3. Have consultations in the past with relevant groups, organisations or individuals within any of the section 75 categories indicated that policies of this type create problems that are specific to them?

NO

4. Is there an opportunity to better promote equality of opportunity or community relations by altering the policy or by working with others in Government or in the larger community in the context of this policy?

NO

Conclusion

As part of its Clean Neighbourhoods agenda, the Department is considering ways to tackle environmental problems relating to dogs. Given that the overall aim of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 is to improve the quality of life for all of the people of Northern Ireland, the Department is of the view that the proposed legislation on dogs does not have a significant negative impact on equality of opportunity on any of the groups specified in section 75 of the Northern Ireland Act 1998.

As a result of the screening analysis, we consider that there will be no significant implications for equality of opportunity as a result of the policy and legislative proposals outlined in this consultation document. A full Equality Impact Assessment is therefore not considered necessary.

RURAL PROOFING

Rural proofing is a process to ensure that all relevant Government policies are carefully and objectively examined to determine whether or not they have a different impact in rural areas from that elsewhere, because of the particular circumstances of rural areas, and where necessary, what policy adjustments might be made to reflect rural needs and in particular to ensure that, as far as possible, public services are accessible on a fair basis to the rural community.

This paper contains the Department's proposals to improve the environmental quality of our public spaces and local neighbourhoods by the introduction of a new regime of dog control orders. The proposals are intended to help district councils across all of Northern Ireland to deal more effectively with environmental problems relating to dogs many of which affect the general appearance and cleanliness of their respective districts and the quality of life for those who live and work there. Generally the proposals are more likely to be used where the need is greatest in deprived and built up areas, however, councils will also be able to apply any new powers in rural areas as and when required. The Clean Neighbourhoods agenda does not, therefore, have a different impact in rural areas and does not affect accessibility to public services in rural areas.

LIST OF CONSULTEES

Animal Behaviour Centre (QUB)
 Animal Welfare Federation NI
 ANVIL Ireland
 arc21
 Attorney General
 Belfast Community Safety Partnership
 Belfast Solicitors Association
 Blue Cross
 British Association for Shooting and Conservation
 British Library
 Bryson Charitable Group
 Canine Partners for Independence
 Catholic Bishops of NI
 Chartered Institute of Environmental Health NI
 Chartered Institute of Wastes Management NI
 Children in Northern Ireland
 Children's Law Centre
 Civil Law Reform Division
 Community Places
 Community Relations Council
 Confederation of British Industry NI
 Conservation Volunteers
 Countryside Alliance
 Disability Action
 District Councils
 District Judge – Magistrates' Court
 Dog Training Services
 Dogs Advisory Group
 Dogs Trust
 Dogs for the Disabled
 Education and Library Boards
 Environment Committee of the NI Assembly
 Environment and Planning Law Association of NI
 Environmental Health Groups
 Environmental Law Foundation
 Environmental Protection UK
 Equality Commission for NI
 Equality Forum NI
 Executive Council of the Inn of Court of NI
 Federation of Small Businesses NI
 Fermanagh Trust
 Fields in Trust
 Friends of Assisi Animal Sanctuary
 Friends of the Earth
 Greyhound Welfare NI
 Groundwork NI
 Guide Dogs for the Blind NI
 Hearing Dogs for Deaf People
 HM Council of County Court Judges
 Human Rights Commission
 The Hunting Association of Northern Ireland
 Include Youth
 Judicial Studies Board
 Kennel Club
 Law Centre NI
 Law Society of NI
 Living Streets
 Local Government Staff Commission
 Local Government Technical Advisors Group (TAG)
 MLAs
 Mourne Heritage Trust
 National Library of Ireland
 National Trust
 NIC/ICTU
 NIPSA
 North South Ministerial Council
 North West Region Waste Management Group
 NI Amenity Council
 NI Association of Citizens Advice Bureaux
 NI Chamber of Commerce and Industry
 NI Chief Environmental Health Officers' Group (CEHOG)
 NI Companion Animal Welfare Committee
 NI Council for Voluntary Action
 NI Court Service
 NI Environment Link
 NI Judicial Appointments Commission
 NI Law Commission
 NI Local Government Association (NILGA)
 NI MEPs
 NI MPs
 NI Ombudsman
 NI Political Parties
 NI Tourist Board
 Northwest Pet Rescue Centre
 Participation and the Practice of Rights Project
 PlayBoard
 Queens University Belfast, School of Law
 Royal National Institute for Deaf People
 Royal National Institute of Blind People
 Society of Local Authority Chief Executives (SOLACE)
 SWaMP2oo8
 Support Dogs
 Sustainable NI
 Tidy Northern Ireland
 Ulster Wildlife Trust
 University of Ulster, School of Law
 USPCA
 Veterinarian Profession in Northern Ireland
 Woodland Trust NI