

Draft Regulations laid before the Assembly under section 75(4) of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 for approval.

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2011 No.

DOGS

CONTROL OF DOGS

The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations (Northern Ireland) 2011

<i>Made</i>	- - - -	2012
<i>Coming into operation</i>		2012

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(1).

Citation and commencement

1. These Regulations may be cited as the Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations (Northern Ireland) 2012 and come into operation on 1st April 2012.

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—
- (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 that 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.

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



Wesley Shannon
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 for any person 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 of order set out below) applies, not to remove forthwith faeces deposited by the dog at any time or during such times or periods as may be specified in the order.

(2) No offence is committed where the 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 the person failing to do so.

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

- (a) is registered as blind or partially sighted in Northern Ireland in a register maintained by or on behalf of a health and social services trust;
- (b) is registered as a blind or partially sighted person in a register compiled under section 29 of the National Assistance Act 1948; or
- (c) has a disability which affects the person’s sight, 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), Guide Dogs for the Blind Association (registered charity number 209617) or Canine Partners for Independence (registered charity number 803680) and upon which the person 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 of order given below, or in a form substantially to the like effect.

Draft Legislation: This is a draft item of legislation and has not yet been made as a Northern Ireland Statutory Rule. This draft has been replaced by a new draft, The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations (Northern Ireland) 2012 ISBN 978-0-337-98636-9

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](a)) Order [X](b)

[X](c) makes the following Order—

Commencement

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

Application

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

Offence

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

- (a) the person 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 the person failing to do so.

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

- (a) is registered as blind or partially sighted in Northern Ireland in a register maintained by, or on behalf of, a health and social services trust;
- (b) is registered as blind or partially sighted in a register compiled under section 29 of the National Assistance Act 1948; or
- (c) has a disability which affects the person's sight, 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 the person relies for assistance.

- (1) Identify, specifically or generally, the land in respect of which the Order applies.
- (b) Insert year in which Order is made.
- (c) Insert name of district council making the Order.
- (d) Insert date Order comes into force, being at least 14 days after the making of the Order.
- (e) Specify whichever is the case.
- (f) Specify periods if the Order is to apply only during certain periods of the year.

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(3) For the purposes of this Article—

- (a) a person who habitually has a dog in their 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; and
- (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);
 - (iv) Guide Dogs for the Blind Association (registered charity number 209617).

Penalty

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

[Date]

[Attestation clause]

[SCHEDULE][SCHEDULE 1](a)

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

[SCHEDULE 2]

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

- (1) Specify whichever is the case.
- (b) Identify, either specifically or by description, the land to which the Order applies.
- (c) If applicable, include Schedule 2 specifying times or periods.

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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 for any person 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 of order set out below) applies, not to keep the dog on a lead or on a lead of a maximum length prescribed in the order, at any time or during such times or periods as may be specified in the order.

(2) No offence is committed where the 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 the person 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 order given below.

3. In all other respects, a Dogs on Leads Order providing for that offence is to be in the form of order 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](a) Order [X](b)

[X](c) makes the following Order—

Commencement

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

Application

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

Offence

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

(a) the person 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 the person failing to do so.

(2) For the purposes of this Article a person who habitually has a dog in their 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.

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

(b) Insert year in which Order is made.

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

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

(e) Specify whichever is the case.

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

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

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Penalty

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

[Date]

[Attestation clause]

[SCHEDULE][SCHEDULE 1](a)

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

[SCHEDULE 2]

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

- (1) Specify whichever is the case.
- (b) Identify, either specifically or by description, the land to which the Order applies.
- (c) If applicable, include Schedule 2 specifying times or periods.

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 for any person 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 of order 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, at any time or during such times or periods as may be specified in the order, when directed to do so by an authorised officer of a district council.

(2) No offence is committed where the 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 the person failing to do so.

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 of order 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](a)) Order [X](b)

[X](c) makes the following Order—

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

Application

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

Interpretation

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.—a) Any person in charge of a dog is guilty of an offence if, [at any time][during the [times][periods] specified in Schedule 2](f), on any land to which this Order applies, the person does not comply with a direction received from 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](g), unless—

(a) the person 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 the person failing to do so.

(2) For the purposes of this Article—

(a) a person who habitually has a dog in their 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 the authorised officer believes that 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.

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

(b) Insert year in which Order is made.

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

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

(e) Specify whichever is the case.

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

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

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Penalty

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

[Date]

[Attestation clause]

[SCHEDULE][SCHEDULE 1](a)

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

[SCHEDULE 2]

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

- (1) Specify whichever is the case.
- (b) Identify, either specifically or by description, the land to which the Order applies.
- (c) If applicable, include Schedule 2 specifying times or periods.

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 for any person when being in charge of a dog on land to which a dog control order (described as a “Dogs Exclusion Order” in the form of order set out below) applies, at any time or 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 the 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 the person doing so.

(3) The offence does not apply to a person with a disability (within the meaning of the Disability Discrimination Act 1995)⁽²⁾ in respect of a dog kept or used by the person wholly or mainly for the purpose of assisting the person to carry out normal day-to-day activities.

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 order given below.

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

(2) 1995 c. 50

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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 Exclusion ([X](a)) Order [X](b)

[X](c) makes the following Order—

Commencement

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

Application

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

Offence

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

(a) the person 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 the person doing so.

(2) Nothing in this Article applies to a person with a disability (within the meaning of the Disability Discrimination Act 1995) in respect of a dog kept or used by the person wholly or mainly for the purpose of assisting the person to carry out normal day-to-day activities.

(3) For the purposes of this Article a person who habitually has a dog in their 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.

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

(b) Insert year in which Order is made.

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

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

(e) Specify whichever is the case.

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

Penalty

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

[Date]

[Attestation clause]

[SCHEDULE][SCHEDULE 1](a)

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

[SCHEDULE 2]

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

(a) Specify whichever is the case.

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

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

SCHEDULE 5

Regulations 3 and 4

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 for any person 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 of order set out below) applies, at any time or 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 the 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 the person 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.

Draft Legislation: This is a draft item of legislation and has not yet been made as a Northern Ireland Statutory Rule. This draft has been replaced by a new draft, The Dog Control Orders (Prescribed Offences and Penalties, etc.) Regulations (Northern Ireland) 2012 ISBN 978-0-337-98636-9

3. In all other respects, a Dogs (Specified Maximum) Order providing for that offence is to be in the form of order 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](a)) Order [X](b)

[X](c) makes the following Order—

Commencement

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

Application

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

Maximum number of dogs

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

Offence

4.—a) Any person in charge of more than one dog is guilty of an offence if, [at any time][during the [times][periods] specified in Schedule 2](g), the person 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) the person 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 the person doing so.

(2) For the purposes of this Article a person who habitually has a dog in their 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.

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

(b) Insert year in which Order is made.

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

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

(e) Specify whichever is the case.

(f) Insert desired maximum number.

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

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Penalty

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

[Date]

[Attestation clause]

[SCHEDULE][SCHEDULE 1](a)

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

[SCHEDULE 2]

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

(a) Specify whichever is the case.

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

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

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 of order 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.

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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](a) (Amendment) Order [X](b)

[X](c) makes the following Order—

Commencement

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

Amendment

2. The [X](e) is amended as follows—

[insert amendments to be made](f).

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

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

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

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

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

(f) 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 offence 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 blind or partially sighted, to a person who has a sight loss in respect of their guide dog, or to a person who has a disability in respect of a dog which is trained by a prescribed charity. The offence of permitting a dog to enter land from which dogs are excluded does not apply to a person who has a disability in respect of their assistance dog.

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 on the effect of the Clean Neighbourhoods and Environment Bill (Northern Ireland) 2010 is available on the Department’s website (dog control orders are dealt with on pp.15 to 16). A separate regulatory impact assessment has not been produced for these Regulations as they have no impact on the cost to business.