



# Clean Neighbourhoods and Environment Act 2005

## 2005 CHAPTER 16

### PART 6

#### DOGS

#### CHAPTER 1

##### CONTROLS ON DOGS

##### *Dog control orders*

#### **55 Power to make dog control orders**

- (1) A primary or secondary authority may in accordance with this Chapter make an order providing for an offence or offences relating to the control of dogs in respect of any land in its area to which this Chapter applies.
- (2) An order under subsection (1) is to be known as a “dog control order”.
- (3) For the purposes of this Chapter an offence relates to the control of dogs if it relates to one of the following matters—
  - (a) fouling of land by dogs and the removal of dog faeces;
  - (b) the keeping of dogs on leads;
  - (c) the exclusion of dogs from land;
  - (d) the number of dogs which a person may take on to any land.
- (4) An offence provided for in a dog control order must be an offence which is prescribed for the purposes of this section by regulations made by the appropriate person.
- (5) Regulations under subsection (4) may in particular—

- (a) specify all or part of the wording to be used in a dog control order for the purpose of providing for any offence;
  - (b) permit a dog control order to specify the times at which, or periods during which, an offence is to apply;
  - (c) provide for an offence to be defined by reference to failure to comply with the directions of a person of a description specified in the regulations.
- (6) A dog control order may specify the land in respect of which it applies specifically or by description.
- (7) A dog control order may be revoked or amended by the authority which made it; but this Chapter applies in relation to any amendment of a dog control order as if it were the making of a new order.

## **56 Dog control orders: supplementary**

- (1) The appropriate person must by regulations prescribe the penalties, or maximum penalties, which may be provided for in a dog control order in relation to any offence.
- (2) Regulations under subsection (1) may not in any case permit a dog control order to provide for a penalty other than a fine not exceeding level 3 on the standard scale in relation to any offence.
- (3) The appropriate person must by regulations prescribe such other requirements relating to the content and form of a dog control order as the appropriate person thinks fit.
- (4) The appropriate person must by regulations prescribe the procedure to be followed by a primary or secondary authority before and after making a dog control order.
- (5) Regulations under subsection (4) must in particular include provision as to—
  - (a) consultation to be undertaken before a dog control order is made;
  - (b) the publicising of a dog control order after it has been made.

## **57 Land to which Chapter 1 applies**

- (1) Subject to this section, this Chapter applies to any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment).
- (2) For the purposes of this section, any land which is covered is to be treated as land which is “open to the air” if it is open to the air on at least one side.
- (3) The appropriate person may by order designate land as land to which this Chapter does not apply (generally or for such purposes as may be specified in the order).
- (4) Land may be designated under subsection (3) specifically or by description.
- (5) Where a private Act confers powers on a person other than a primary or secondary authority for the regulation of any land, that person may, by notice in writing given to the primary and secondary authorities in whose area the land is situated, exclude the application of this Chapter to that land.

## **58 Primary and secondary authorities**

- (1) Each of the following is a “primary authority” for the purposes of this Chapter—
  - (a) a district council in England;

- (b) a county council in England for an area for which there is no district council;
  - (c) a London borough council;
  - (d) the Common Council of the City of London;
  - (e) the Council of the Isles of Scilly;
  - (f) a county or county borough council in Wales.
- (2) Each of the following is a “secondary authority” for the purposes of this Chapter—
- (a) a parish council in England;
  - (b) a community council in Wales.
- (3) The appropriate person may by order designate any person or body exercising functions under an enactment as a secondary authority for the purposes of this Chapter in respect of an area specified in the order.

#### *Fixed penalty notices*

### **59 Fixed penalty notices**

- (1) This section applies where on any occasion—
- (a) an authorised officer of a primary or secondary authority has reason to believe that a person has committed an offence under a dog control order made by that authority; or
  - (b) an authorised officer of a secondary authority has reason to believe that a person has in its area committed an offence under a dog control order made by a primary authority.
- (2) The authorised officer may give that person a notice offering him the opportunity of discharging any liability to conviction for the offence by payment of a fixed penalty.
- (3) A fixed penalty payable under this section is payable to the primary or secondary authority whose officer gave the notice.
- (4) Where a person is given a notice under this section in respect of an offence—
- (a) no proceedings may be instituted for that offence before the expiration of the period of fourteen days following the date of the notice; and
  - (b) he may not be convicted of that offence if he pays the fixed penalty before the expiration of that period.
- (5) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.
- (6) A notice under this section must also state—
- (a) the period during which, by virtue of subsection (4), proceedings will not be taken for the offence;
  - (b) the amount of the fixed penalty; and
  - (c) the person to whom and the address at which the fixed penalty may be paid.
- (7) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty (in cash or otherwise) to the person mentioned in subsection (6)(c) at the address so mentioned.

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*Status: This is the original version (as it was originally enacted).*

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- (8) Where a letter is sent in accordance with subsection (7) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.
- (9) The form of a notice under this section is to be such as the appropriate person may by order prescribe.
- (10) In any proceedings a certificate which—
- (a) purports to be signed on behalf of the chief finance officer of a primary or secondary authority, and
  - (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,
- is evidence of the facts stated.
- (11) In this section—
- “authorised officer”, in relation to a primary or secondary authority, means—
- (a) an employee of the authority who is authorised in writing by the authority for the purpose of giving notices under this section;
  - (b) any person who, in pursuance of arrangements made with the authority, has the function of giving such notices and is authorised in writing by the authority to perform that function; and
  - (c) any employee of such a person who is authorised in writing by the authority for the purpose of giving such notices;
- “chief finance officer”, in relation to a primary or secondary authority, means the person having responsibility for the financial affairs of the authority.
- (12) The appropriate person may by regulations prescribe conditions to be satisfied by a person before a secondary authority may authorise him in writing for the purpose of giving notices under this section.

## **60 Amount of fixed penalties**

- (1) The amount of a fixed penalty payable to a primary or secondary authority in pursuance of a notice under section 59 in respect of an offence under a dog control order—
- (a) is the amount specified by the authority which made the order;
  - (b) if no amount is so specified, is £75.
- (2) A primary or secondary authority may under subsection (1)(a) specify different amounts in relation to different offences.
- (3) A primary or secondary authority may make provision for treating a fixed penalty payable to that authority in pursuance of a notice under section 59 as having been paid if a lesser amount is paid before the end of a period specified by the authority.
- (4) The appropriate person may by regulations make provision in connection with the powers conferred on primary and secondary authorities under subsections (1)(a) and (3).
- (5) Regulations under subsection (4) may (in particular)—

- (a) require an amount specified under subsection (1)(a) to fall within a range prescribed in the regulations;
  - (b) restrict the extent to which, and the circumstances in which, a primary or secondary authority can make provision under subsection (3).
- (6) The appropriate person may by order substitute a different amount for the amount for the time being specified in subsection (1)(b).

## **61 Power to require name and address**

- (1) If an authorised officer of a primary or secondary authority proposes to give a person a notice under section 59, the officer may require the person to give him his name and address.
- (2) A person commits an offence if—
- (a) he fails to give his name and address when required to do so under subsection (1), or
  - (b) he gives a false or inaccurate name or address in response to a requirement under that subsection.
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) In this section “authorised officer” has the same meaning as in section 59.

## **62 Community support officers etc**

- (1) The Police Reform Act 2002 (c. 30) is amended as follows.
- (2) In Schedule 4 (community support officers), in paragraph 1(2), after paragraph (d) insert “and
- (e) the power of an authorised officer of a primary or secondary authority, within the meaning of section 59 of the Clean Neighbourhoods and Environment Act 2005, to give a notice under that section (fixed penalty notices in respect of offences under dog control orders).”
- (3) In Schedule 5 (accredited persons), in paragraph 1(2), after paragraph (c) insert “and
- (d) the power of an authorised officer of a primary or secondary authority, within the meaning of section 59 of the Clean Neighbourhoods and Environment Act 2005, to give a notice under that section (fixed penalty notices in respect of offences under dog control orders).”

### *Supplementary*

## **63 Overlapping powers**

- (1) Where a primary authority makes a dog control order providing for an offence relating to a matter specified in any of paragraphs (a) to (d) of section 55(3) as respects any land—
- (a) a secondary authority may not make a dog control order providing for any offence which relates to the matter specified in that paragraph as respects that land;

- (b) any dog control order previously made by a secondary authority providing for any offence which relates to the matter specified in that paragraph shall, to the extent that it so provides, cease to have effect.
- (2) Where the area of an authority designated as a secondary authority under section 58(3) is to any extent the same as that of a parish or community council, subsection (1) applies in relation to orders made by the designated authority and that council as if the council were a primary authority.

## 64 Byelaws

- (1) Where, apart from this subsection, a primary or secondary authority has at any time power to make a byelaw in relation to any matter specified in any of paragraphs (a) to (d) of section 55(3) as respects any land, it may not make such a byelaw if at that time it has power under this Chapter to make a dog control order as respects that land in relation to the matter specified in that paragraph.
- (2) Subsection (1) does not affect any byelaw which the authority had power to make at the time it was made.
- (3) Where a dog control order is made in relation to any matter specified in any of paragraphs (a) to (d) of section 55(3) as respects any land, any byelaw previously made by a primary or secondary authority which has the effect of making a person guilty of any offence in relation to the matter specified in that paragraph as respects that land shall cease to have that effect.
- (4) Where any act or omission would, apart from this subsection, constitute an offence under a dog control order and any byelaw, the act or omission shall not constitute an offence under the byelaw.

## 65 Dogs (Fouling of Land) Act 1996

The Dogs (Fouling of Land) Act 1996 (c. 20) shall cease to have effect.

### *General*

## 66 “Appropriate person”

In this Chapter, “appropriate person” means—

- (a) the Secretary of State, in relation to England;
- (b) the National Assembly for Wales, in relation to Wales.

## 67 Regulations and orders

- (1) Any power conferred by this Chapter on the Secretary of State or National Assembly for Wales to make regulations or an order includes—
  - (a) power to make different provision for different purposes (including different provision for different authorities or different descriptions of authority);
  - (b) power to make consequential, supplementary, incidental and transitional provision and savings.

- (2) Any power conferred by this Chapter on the Secretary of State or National Assembly for Wales to make regulations or an order is exercisable by statutory instrument.
- (3) The Secretary of State may not make a statutory instrument containing regulations under section 55(4) or 56(1) unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A statutory instrument containing—
  - (a) regulations made by the Secretary of State under this Chapter to which subsection (3) does not apply, or
  - (b) an order made by the Secretary of State under this Chapter,is subject to annulment in pursuance of a resolution of either House of Parliament.