

**EXPLANATORY MEMORANDUM TO
THE CONTROLS ON DOGS (NON-APPLICATION TO DESIGNATED LAND)
ORDER 2006**

2006 No. 779

- 1.** This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Select Committee on the Merits of Statutory Instruments.

2. Description

2.1 This Order exempts from dog control orders land placed at the disposal of the Forestry Commission and, in respect of Orders excluding dogs from land only, roads.

3. Matters of special interest to the Select Committee on the Merits of Statutory Instruments

3.1 None.

4. Legislative Background

4.1 Part 6, Chapter 1, of the Clean Neighbourhoods and Environment Act 2005, replaces local authority and parish council dog byelaws-making powers with new powers to control dogs via dog control orders.

4.2 Dog Control Orders may be made in respect of any land, which is open to the air (including land open to the air on at least one side) to which the public are entitled or permitted to have access (without or without payment). Under section 57(3) of the Clean Neighbourhoods and Environment Act 2005, the appropriate person (the Secretary of State) may also designate land to which Part 6, Chapter 1 does not apply.

5. Extent

5.1 This instrument applies in England.

6. European Convention on Human Rights

6.1 The Minister for Local Environmental Quality has made the following statement regarding Human Rights:

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Clean Neighbourhoods and Environment Act 2005, at Part 6, Chapter 1, replaced current dog byelaws-making powers with powers for “primary authorities” (i.e. district councils, certain county councils, London borough councils, the Common Council of the City of London and the Council of the Scilly Isles) and secondary authorities (principally, parish councils) to make dog control orders.

7.2 Under section 57 of the Clean Neighbourhoods and Environment Act 2005 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. The Secretary of the State has the power under this section 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 Order designates land controlled by the Forestry Commission in respect of all dog control orders. This is because Forestry Commission has its own byelaw making powers which provide it with greater flexibility than would dog control orders., The Order also designates roads (including highways), but only in respect of dog control orders excluding dogs from land specified in the order. This provision is intended to ensure that dogs are not excluded from roads in respect of which rights of way exist.

Consultation

7.3 The proposal to exempt Forestry Commission land and roads from dog control orders was included in the consultation document on the implementation of the Clean Neighbourhoods and Environment Act 2005 published on 14 October 2005.

8. Impact

8.1 A full and final Regulatory Impact Assessment on the Clean Neighbourhoods and Environment Act was completed in April 2005. This instrument will have no additional impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is neutral.

9. Contact

Grant McPhee at the Department for Environment, Food and Rural Affairs, Tel: 0207 082 8754 or e-mail: grant.mcphee@defra.gsi.gov.uk can answer any queries regarding the instrument.