

EXPLANATORY MEMORANDUM TO
THE DOCKING OF WORKING DOGS' TAILS (ENGLAND) REGULATIONS 2007
2007 No. [XXXX]

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.

2. Description

2.1 These Regulations supplement section 6 of the Animal Welfare Act 2006, which provides for a ban on the docking of dogs tails other than for their medical treatment, but with an exemption for prophylactic docking for certain working dogs. The purpose of the Regulations is to set out which dogs will be exempt from the ban, and how they will be certified and identified.

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

3.1 None

4. Legislative Background

4.1 The principle of the exemption for working dogs from the ban on tail docking was decided by a vote in the House of Commons on 14 March 2006 in debates on the Animal Welfare Bill. Specific undertakings as to the potential content of these regulations were given by the Minister (Hansard: Volume No. 443, Part No. 124 col. 1330)

4.2 The Regulations and their potential content were discussed during debates on the Animal Welfare Bill 2006. Reference to these debates are listed below.
(Hansard: Volume No.441, Part No.89, col. 165)
(Commons Standing Committee A, 17 Jan 2006, col. 52)
(Hansard: Volume No. 680, Part No. 131, col. 980)
(Hansard: Volume No. 682, Part No. 152, col. GC193)
(Hansard: Volume No. 683, Part No. 161, col. GC24)
(Hansard: Volume No. 685, Part No. 196, col. 998)
(Hansard: Volume No. 451, Part No. 213, col. 598)

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

The Minister for Local Environment, Marine and Animal Welfare (Ben Bradshaw) has made the following statement regarding Human Rights:

In my view the provisions of the Docking of Working Dogs' Tails (England) Regulations are compatible with the Convention rights.

7. Policy background

- 7.1 The objective of section 6 of the Animal Welfare Act 2006 is to ban the routine cosmetic docking of dogs' tails. An exemption to the ban at section 6(3) applies to certified working dogs, and is intended to operate where injury to the dog through work may cause more pain and suffering than that of docking the dog as a puppy. The exemption is therefore justified on welfare grounds for dogs undertaking specified types of work. These Regulations describe and apply this exemption.
- 7.2 Certified working dogs must be of one of the following types: 'Spaniels', 'Terriers' or 'Hunt Point Retrieve Breeds'. The latter is intended to include the breeds below but the list is not exhaustive, and allows for the addition of traditionally docked breeds of hunt point retrieve dogs which are new to England.
- Bracco Italiano;
 - Brittany;
 - German long-haired pointer;
 - German short-haired pointer;
 - German wire-haired pointer;
 - Hungarian vizsla;
 - Hungarian wire-haired vizsla;
 - Italian Spinone;
 - Korthals Griffon;
 - Large Munsterlander;
 - Pudel Pointer;
 - Slovakian Rough Haired Pointer;
 - Slovakian Wire Haired Pointer;
 - Small Munsterlander;
 - Spanish Water-dog;
 - Weimaraner.
- 7.3 It remains the prerogative of a veterinary surgeon as to whether he chooses to dock a dog's tail or not. Vets are encouraged to dock the puppy's tail and microchip them at the same time where they feel this is feasible.
- 7.4 A dog may be docked if evidence is provided that it is likely to be worked in connection with law enforcement, activities of Her Majesty's Armed Forces, emergency rescue, lawful pest control, or the lawful shooting of animals.
- 7.5 An emergency rescue service will commonly be understood to mean any person or body which uses dogs to assist in emergency rescue. This would include where such services are based in this country, but only usually provided abroad. Within the UK one might expect dogs to be used only in mountain rescue services; abroad, this country sends teams using dogs to assist in finding people in collapsed buildings in the aftermath of earthquakes.
- 7.6 Prison service identification refers to both employees of HM Prison Service, and also private companies who are contracted to provide custodial services and run prisons.

Public and Media Response

7.7 The issue of tail docking received much attention both for and against the basic principle of the parent Act's provisions. However, the detail of this Statutory Instrument has received less attention. Issues on opposing sides of the argument were raised by welfare groups, dog groups, individual members of the public. The issue featured in some national press but largely in specialist and trade press.

Consultation

7.8 These regulations were widely consulted on. There were 50 responses in total to a joint consultation on both regulations relating to the tail docking of dogs and to mutilations. Responses came from dog groups, veterinary surgeons and their representative bodies, welfare organisations, government departments, other interest groups and individual members of the public.

7.9 As a result of the consultation, some minor amendments were made to the regulations.

Guidance

7.10 Defra has been liaising closely with the Royal College of Veterinary Surgeons and will continue to do so as regards the Regulations' implementation. There has also been, and will continue to be, informal consultation with the Kennel Club in order to inform dog owners of the new requirements.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

Graham Thurlow at Defra Tel: 020 7904 6457 or e-mail:
graham.thurlow@defra.gsi.gov.uk can answer any queries regarding the instrument.

Regulatory Impact Assessment
Draft The Docking of Working Dogs' Tails (England) Regulations
2007

A draft statutory instrument to support the requirements for certification and identification of working dogs exempt from the ban on tail docking of dogs contained in section 6 of the Animal Welfare Act 2006.

Defra
February 2007

1. This document sets out the impact of the proposed Docking of Working Dogs' Tails (England) Regulations 2007. Parliament debated the issue of tail docking at Report stage of the Animal Welfare Bill in the House of Commons on 14 March 2006, and decided to ban all docking with exceptions for medical treatment and prophylactic docking for working dogs. The scope of the Regulations is restricted to identifying which dogs are exempted from the ban on grounds of being working dogs; and specify how those dogs will be identified and certificated.

Issue

2. Section 6 of the Animal Welfare Act 2006 bans the tail docking of a dog other than for the purpose of its therapeutic treatment. However, a limited exception to this prohibition is permitted for certain working dogs which are considered to benefit from prophylactic docking.
3. The Docking of Working Dogs' Tails (England) Regulations made under section 6(4), (5), (6), (8) and (14) of the Animal Welfare Act 2006 will set out which types of dog are exempt from the ban and requires each legally docked dog to be identified by microchipping. They will also specify the contents of the certificate that the owner, and vet carrying out the procedure, will sign to show that they understand the conditions of carrying out the procedure, and in the vet's case, have seen evidence that the dog is one that is likely to work. Also specified are the types of evidence that an owner must provide to the vet to show that the dog is likely to work. The certificate also has a second part which the vet and owner are again required to sign when the dog is microchipped.

Scale of Impact

4. In 2002 it was estimated that about 78,000 puppies were docked in the UK each year. Statistics are not available separately for England and Wales. It is also estimated that 16,000 of these in England and Wales go on to become working dogs.

Benefits

5. The benefits of the certification scheme are that it offers a safeguard against breeders and others who may try to circumvent the ban, and ensures a standardisation of the evidence that needs to be submitted before a veterinary surgeon can dock an exempted dog's tail. It also offers protection for vets who will be at the front line of ensuring that the exemption works.
6. In addition, the Regulations meet the concerns of the sporting community, police, armed forces and others who work their dogs who were concerned both about the welfare of their dogs and also the financial consequences of having to meet the veterinary costs for frequent tail injury.

Consultation

7. In order to make the Regulations as effective as possible, informal consultation has been carried out regularly. There has also been a formal public consultation. The included types of dog have been drawn up with the advice of the police, the British Association for Shooting and Conservation (BASC), and other relevant affected organisations, and the government is confident that it covers all relevant types and that the certification scheme is robust. As vets will be required to sign the certificate, the content of which has been drawn up in conjunction with the RCVS.
8. These Regulations were widely consulted on. There were 50 responses in total to a joint consultation on both Regulations relating to the tail docking of dogs and to mutilations. Responses relating to these Regulations came from dog groups, veterinary surgeons and their representative bodies, welfare organisations, government departments, other interest groups and individual members of the public.

Avoidance and Enforcement

9. It is intended that the ban on showing docked dogs will reduce the demand for docking in non-working dogs. However, it may be the case that there will still be demand for dogs to be docked although they do not work. In this case, an owner may attempt to provide a vet with false evidence to say that it will work. However, the nature of the evidence required should make this prohibitively difficult; and the owner will have to sign the certificate on the understanding that he commits an offence by providing false information.

Certification and Evidence

10. The RCVS has been consulted and considers that there is enough protection for vets who carry out the procedure.
11. The evidence base has been chosen because the procedure must be carried out when the dog is no older than 5 days, and it will clearly not be working at this age. Therefore, the owner must produce evidence that it is likely to work in the future. The evidence will show that the dog will work as a police, armed forces, emergency rescue, prison, HM Customs or pest control dog; or that it will be used in game shooting. Other forms of evidence were considered, but those specified are considered the most robust.
12. The Home Office is satisfied with the use of shotgun licences for evidential value. The proposed format of the certificate does not entail identifying which piece of evidence the vet has seen; just that some evidence was seen. Therefore, shotgun licence holders would not be publicly identified by the certificate.

Costs and Savings

13. Potentially, these Regulations have very low cost impacts, and possible savings could also be made. Assuming that any dog which will be docked under the Regulations would at present be docked under the status quo, the total number of dogs being docked will fall. Nevertheless, it should now be the case that (rather than being docked illegally by lay people) all dogs will be docked by vets, which will have implications for vets' time and financial costs. However, this cost will mostly be recovered by charging the owners, and there is no increase in legal requirements to have dogs docked.
14. The microchipping procedure may be carried out at a different time to the docking. This imposes an obligatory cost of the microchipping procedure on the owner of the dog, is likely to mean a cost increase burden on those owners who would not have microchipped their dogs previously. Ear tattooing was considered, but as the mark would not necessarily be unique, this would entail issuing uniquely numbered certificates and would impose an increase in administrative burden on the issuing body (the RCVS). In addition, tattoos can fade or become unreadable over time and numbers on a tattoo could also be changed by further tattooing. For these reasons, this method would be open to more avoidance. The Pet Passport Scheme uses only microchipping for identification purposes for these reasons. Overall, microchipping is the only way of uniquely and permanently identifying a legally docked dog, and will ultimately benefit owners over the dog's life (identification as a legally docked dog, but also if lost or stolen), even if imposing a short-term cost.
15. The cost of microchipping and certificating the dog is the only additional legal requirement that increases costs on owners. Based on the current average cost of microchipping being £25; and the current average cost of issuing a certificate to the dog being £30; the total cost to an owner for one dog would be £55. These are figures based on estimates provided to us by interested parties.

Estimated cost of microchipping	Estimated cost of issuing a certificate	Maximum number of dogs docked	Estimated maximum total costs to owners
£25	£30	16,000	£880,000

16. It is very likely that the costs of enforcement to the police will be minimal. It is anticipated that the overall number of prosecutions for offences under these Regulations will be very small (perhaps even zero).

Border Issues

17. Scottish Ministers announced in February that they would enforce a total ban on docking by not exempting tail docking from the general ban in their Animal Health and Welfare Act on mutilations. This will still enable them to introduce a working dog exemption in Regulations if evidence of problems later came to light.
18. However, for the foreseeable future there will be inconsistency in the approaches between England/Wales and Scotland (and possibly Wales if they decide to introduce their Regulations in a different form from the English Regulations). However, the Scottish Act will also make it an offence to remove a dog from Scotland in order to dock its tail. This should prevent any 'docking tourism' where the difference in systems is exploited by Scots bringing their dogs to England (or Wales) to be docked.

Declaration

I have read the Regulatory Impact Assessment on the docking of dogs' tails and I am satisfied that the benefits justify the costs.

Signed Ben Bradshaw
Date 7th February 2007

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