



**Isle of Man**

*Ellan Vannin*

**AT 4 of 2018**

**DOGS (AMENDMENT) ACT 2018**





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## DOGS (AMENDMENT) ACT 2018

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## **DOGS (AMENDMENT) ACT 2018**

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**AN ACT** to amend the Dogs Act 1990 to impose a requirement for every dog on the Island to have implanted in it a microchip; to require the keeper of every dog on the Island to ensure that the dog is microchipped; to abolish the licensing and duty regime for dogs on the Island; and for connected purposes.

**BE IT ENACTED** by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### **1 Short title**

The short title of this Act is the Dogs (Amendment) Act 2018.

### **2 Commencement**

- (1) This Act, other than section 1 and this section, comes into operation on such day or days as the Department of Environment, Food and Agriculture (“the Department”) may by order appoint.
- (2) An order under subsection (1) may contain such incidental, transitional and transitory provisions as the Department considers appropriate.

### **3 Expiry**

- (1) This Act expires —
  - (a) on the day after its promulgation if all of its provisions are in operation on its promulgation; or
  - (b) otherwise, on the day after the last provision is brought into operation.
- (2) Despite subsection (1), the expiry does not —
  - (a) revive any provision, which this Act amends, as the provision operated before the amendment commenced;

- (b) revive anything not in operation or existing when the amendment took effect;
- (c) affect the continuing operation of the amendment; or
- (d) revive any provision repealed by the earlier operation of this Act.

#### 4 Amendment of the Dogs Act 1990

The *Dogs Act 1990* is amended as follows.

#### 5 Repeal and replacement of Part I

Delete Part I and substitute the following —

### **PART I – MICROCHIPPING OF DOGS**

#### **1 Obligation to microchip dogs and abolition of licensing regime**

- (1) Every dog owner shall ensure —
  - (a) that a microchip is implanted by a qualified person in each of the owner's dogs that is 8 weeks old or older; and
  - (b) that every microchip implanted in a dog meets such requirements as may be prescribed.
- (2) Subject to subsection (3), a dog owner commits a separate offence in respect of each of his dogs that has not been microchipped, and on summary conviction of each such offence shall be liable to a fine not exceeding £500.
- (3) Where a dog that has not been microchipped is, with the consent of the owner, kept by another person, that person instead of the owner commits an offence under subsection (1) and shall be liable to be prosecuted and, if convicted, fined in accordance with that subsection.
- (4) In proceedings for an offence under this section, the prosecution discharges its evidential burden by adducing sufficient evidence that the dog in question has not been microchipped, and no regard whatsoever shall be had to *mens rea*.
- (5) As of the date on which this Part comes into operation —
  - (a) the issuing of licences shall forthwith and forever cease; and
  - (b) all licences previously issued in respect of dogs, regardless of the date on which they were issued, shall immediately be null, void and of no effect.

## 2 Defences

- (1) In proceedings for an offence under section 1, it is a defence to prove that the dog to which the offence relates —
  - (a) was imported into the Island less than 30 days prior to the date on which the keeper was charged with the offence; or
  - (b) was examined by a veterinarian whose findings were that the dog should not be microchipped for reasons of the dog's health.
- (2) When raising a defence under subsection (1)(b), a certificate setting out the veterinarian's findings shall be sufficient proof of those findings.
- (3) A certificate referred to in subsection (2) shall state the period for which the dog will be unfit to be microchipped.

## 3 Duties in respect of databases

- (1) A keeper shall —
  - (a) within the prescribed period after microchipping a dog, accurately enter prescribed information in an approved database ("the database");
  - (b) ensure that —
    - (i) within 21 days of a change, the information on the database is updated to reflect the change whilst the dog remains in the same ownership; or
    - (ii) when the dog is transferred to new ownership, the information of the new owner is substituted in the database, in default of which the original owner will retain full legal responsibility for the dog.
- (2) The Department —
  - (a) may require a database operator to furnish it with such information in respect of the database as it considers necessary or convenient for its administration of this Act; and
  - (b) shall prescribe the following —
    - (i) the conditions to be met by a database operator;
    - (ii) the information that keepers shall ensure is entered in the database;
    - (iii) details regarding the information that the Department may require the database operator to furnish under paragraph (a) and the reasons for which it may require that information; and

- (iv) that failure to furnish information as required in accordance with paragraph (a) is an offence, and the penalty on summary conviction of such an offence.

(3) A keeper who —

- (a) fails to update details in the database when those details have changed, commits an offence and shall be liable on summary conviction to a fine not exceeding £500; or
- (b) fraudulently or negligently enters inaccurate information in the database, commits an offence and shall be liable on summary conviction to a fine not exceeding £1000.

#### 4 Power to seize dogs

(1) A constable, dog warden or authorised officer shall —

- (a) use best endeavours to seize any stray dog found outside the curtilage of a keeper's dwelling-house; and
- (b) where he succeeds in seizing the dog, comply with either of the following, as appropriate —

- (i) where the dog is not microchipped, treat it in accordance with Part III; or

- (ii) where the dog is microchipped —

- (A) use the information in the database in respect of the dog to contact the owner and request that the owner or his representative collect the dog from prescribed premises; and

- (B) if the owner or his representative comes to collect the dog within 3 hours of being contacted, collect from the person who comes to collect the dog a fee of £50 before turning the dog over to that person.

(2) Where, in the circumstances described in subsection (1)(b)(ii) —

- (a) after a reasonable number of attempts, efforts to contact the owner using the information in the database have been unsuccessful; or
- (b) the owner or his representative refuses to pay the £50 fee or comes to collect the dog more than 3 hours after having been contacted,

the dog may be treated in accordance with Part III.

#### 5 Attempt to collect unidentifiable dog

(1) Where —

- (a) a dog described in section 4(1)(b)(i) has been seized;
  - (b) there are no visible means on the dog of identifying its owner; and
  - (c) a person comes forward to claim the dog,
- that person shall give his name and address to the constable, dog warden or authorised officer, as the case may be.
- (2) On receipt of the person's name and address the constable, dog warden or authorised officer, as the case may be —
    - (a) may demand that the person furnish any additional information that he may require in order to be satisfied that the person is in fact the keeper of the dog; and
    - (b) shall act in accordance with section 15.
  - (3) A person who fails or refuses to give his name and address in accordance with subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding £200. **22**.

## 6 Amendment of section 7

Amend section 7 —

- (a) in subsection (5), by deleting “section 1 of the *Cruelty to Animals Act 1955*” and substituting **23**section 5(1) of the *Cruelty to Animals Act 1997* **22**; and
- (b) in subsection (6), by deleting “the *Cruelty to Animals Act 1925*” and substituting **23**the *Cruelty to Animals Act 1997* **22**.

## 7 Amendment of section 13

Amend section 13 —

- (a) in subsection (1), —
  - (i) by deleting “A constable or dog warden” and substituting **23**Subject to subsection (1A), a constable or dog warden **22**;
  - (ii) by deleting “, unless the dog has been restored to its owner,”; and
  - (iii) by deleting paragraph (c);
- (b) by inserting immediately after subsection (1) the following —
  - 23** (1A) Subsection (1) does not apply where the dog seized under section 12 —
    - (a) has been microchipped; and
    - (b) has been returned to its owner. **22**;
- (c) in subsection (3), by deleting “, or to whom a dog licence in respect of the dog has been issued,”; and

- (d) by deleting subsection (4) and substituting the following —
- ▮ (4) Where the dog in the constable’s possession is not microchipped, the constable shall serve upon the person who comes to claim the dog a notice —
- (a) requiring the person to ensure that the dog is microchipped within 7 days of receipt of the notice; and
  - (b) stipulating that the person will be liable to prosecution under section 1 if the person fails to comply with the notice.
- (5) Any person who seizes a dog and fails without reasonable excuse to comply with the requirements of subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding £200. ▮

## 8 Amendment of section 14

Amend section 14 by deleting subsection (4) and substituting the following —

- ▮ (4) On the sale or gift of a dog under subsection (3) —
- (a) if the dog is microchipped, the buyer or donee shall within the prescribed period after taking possession of the dog update the details on the database; or
  - (b) if the dog is not microchipped, the buyer or donee shall within 72 hours ensure that the dog is microchipped and thereafter forthwith provide the Chief Constable or the Department, as the case may be, with evidence that the dog has been microchipped,
- and in either case the property in the dog is transferred to the buyer or donee on sale or gift, as the case may be. ▮.

## 9 Amendment of section 15

Amend section 15 by deleting subparagraph (ii) of paragraph (a) and substituting the following —

- ▮ (ii) that the dog has been microchipped or that, in accordance with section 13(4), a notice has been issued requiring that the dog be microchipped; and ▮.

## 10 Amendment of section 19

Amend section 19 by deleting from subsection (6) “Sections 1(2) and (3) and 2 of the *Cruelty to Animals Act 1955*” and substituting ▮ Sections 5(2) and (3) and 6 of the *Cruelty to Animals Act 1997* ▮.

**11 Amendment of section 25**

Amend section 25 by deleting “4(2),”.

**12 Amendment of section 27A**

Amend section 27A —

- (a) in subsection (1),—
  - (i) by deleting “4(2), 5(1) or”; and
  - (ii) by deleting “convicted of” and substituting **66**prosecuted for **62**;
- (b) in subsection (2), by deleting “convicted of” and substituting **66**prosecuted for **62**; and
- (c) by deleting subsection (3) and substituting the following —
  - 66** (3) Where a person is given a notice under this section in respect of an offence, criminal proceedings shall not be taken —
    - (a) at all, if the penalty has been paid before the expiration of 14 days following the date of notice, or such longer period (if any) as may be specified in the notice; or
    - (b) until 14 days, or such longer period (if any) as may be specified in the notice, have elapsed following the date of the notice. **62**.

**13 Amendment of section 28**

Amend section 28 by deleting subsection (1) and substituting the following —

- 66** (1) The Department may by regulations prescribe anything which is necessary or convenient for the administration of this Act, and such regulations shall be laid before Tynwald. **62**.

**14 Amendment of section 29**

Amend section 29 by repealing subsections (5) and (6).

**15 Amendment of section 30**

Amend section 30 —

- (a) by deleting the following words and their definitions —
  - (i) “collar”;
  - (ii) “current token”;
  - (iii) “dog licence”;
  - (iv) “neutered”;

- (v) “**token**”; and
- (vi) “**year**”; and
- (b) by inserting the following in the appropriate alphabetical sequence —
  - ☞ “**approved database**” means a database —
    - (a) that meets the prescribed requirements; and
    - (b) that the Department has endorsed in the prescribed manner; ☞;
  - ☞ “**microchip**”, when used as a verb, means to implant with a microchip that meets the prescribed requirements, and when used in respect of the owner or keeper of a dog shall mean having the dog microchipped by a qualified person; ☞;
  - ☞ “**qualified person**”, when used in respect of microchipping, means a person who meets such requirements as shall be prescribed; ☞.

## 16 Repeal of Schedule 1

- (1) Schedule 1 is repealed.