EXPLANATORY MEMORANDUM TO

THE CONTROLS ON DOGS (DESIGNATION OF THE COMMON COUNCIL OF THE CITY OF LONDON AS A SECONDARY AUTHORITY) ORDER 2012

2012 No. 1223

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 Joint Committee on Statutory Instruments.

2. Purpose of the instrument

This Order designates the Common Council of the City of London as a secondary authority in respect of areas listed at 7.5 of this memorandum to make an order providing for offences relating to dogs.

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

3.1 None

4. Legislative Context

4.1 Part 6, Chapter 1, of the Clean Neighbourhoods and Environment Act 2005 allows for the designation of the City of London as a secondary authority to make dog control orders in respect of land within its ownership but for which it does not hold primary status.

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 (with or without payment). Under section 63(1) of the Clean Neighbourhoods and Environment Act 2005, there is provision to make a body a secondary authority for the purpose of implementing dog control orders in its outlying open spaces if they feel that the appropriate level of regulation does not exist.

4.3 Existing rights will remain with the boroughs, as under section 63(1) of the Clean Neighbourhoods and Environment Act 2005 any dog control orders made by a primary authority providing for an offence relating to dog control in respect of land in its area, shall overrule a prior dog control order made for that same offence by a secondary authority and further, a secondary authority may not make a further dog control orders relating to the same offence and on the same land.

5. Territorial Extent and Application

This instrument applies in England.

6. European Convention on 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 The Dog Control Orders (Prescribed offences and Penalties) Regulations provide for five offences which may be prescribed by a dog control order:

a) Failing to remove dog faeces
b) Failing to put a dog on a lead
c) Not putting and keeping a dog on a lead when directed to do so by an authorised officer
d) Permitting a dog to enter land from which dogs are excluded
e) Taking more than the specified number of dogs onto land.

7.3 The City of London Corporation is a primary authority and can make dog control orders within its administrative area under section 55(1) of the Clean Neighbourhoods and Environment Act (CNEA) 2005. The City of London has responsibilities that extend beyond the boundaries of its administrative area, including the ownership and management of several large open spaces, in which it has no power to issue Dog Control Orders.

7.4 The City of London requested that Defra utilise Section 58(3) of the Act which states that "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", in order to implement dog control orders in its open spaces.

7.5 Areas over which the Common Council of the City of London is designated a secondary authority are

- Ashtead Common in the primary authority area of Mole Valley District Council
- Bunhill Fields in the primary authority area of the London Borough of Islington

- Burnham Beeches in the primary authority area of South Buckinghamshire District Council
- The City of London Cemetery in the primary authority area of the London Borough of Newham
- Coulsdon Common in the primary authority area of the London Borough of Croydon
- The Deer Sanctuary adjoining Epping Forest in the primary authority area of Epping Forest District Council
- Epping Forest in the primary authority areas of Epping Forest District Council, the London Borough of Newham, the London Borough of Redbridge and the London Borough of Waltham Forest
- Farthing Downs in the primary authority of the London Borough of Croydon
- Golders Hill Park in the primary authority area of the London Borough of Barnet
- Hampstead Heath in the primary authority areas of the London Borough of Barnet and the London Borough of Camden
- Highgate Wood in the primary authority area of the London Borough of Haringey
- Kenley Common in the primary authority area of the London Borough of Croydon
- Queens Park in the primary authority area of the London Borough of Brent
- Riddlesdown in the primary authority area of the London Borough of Croydon
- Spring Park in the primary authority area of the London Borough of Croydon
- Stoke Common in the primary authority area of South Buckinghamshire District Council
- West Ham park in the primary authority area of the London Borough of Newham
- West Wickham Common in the primary authority area of the London Borough of Bromley

8. Consultation outcome

No consultation was undertaken on this Order.

9. Guidance

Guidance on dog control orders can be found on the Defra website.
http://www.defra.gov.uk/environment/quality/local/legislation/cnea/documents/dogcontrol-orders.pdf

10. Impact

10.1 The impact on business, charities or voluntary bodies is neutral.

10.2 The impact on the public sector is neutral.

10.3 An Impact Assessment on the CNEA was completed in April 2005.

11. Regulating small business

The legislation does not apply to small businesses.

12. Monitoring & review

This legislation enables the Secondary Authority to introduce Dog Control Orders where they deem this appropriate. The need for orders will be determined locally and there will be consultation of local residents before introduction. The Primary and Secondary Authorities concerned will be responsible for monitoring and review.

13. Contact

Simon Qasim at the Department for Environment, Food and Rural Affairs, Tel: 0207 238 3000 or email: simon.qasim@defra.gsi.gov.uk can answer any queries regarding the instrument.