EXPLANATORY MEMORANDUM TO

THE DANGEROUS DOGS (DESIGNATED TYPES) (ENGLAND AND WALES) ORDER 2023

2023 No. 1164

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Environment Food and Rural Affairs and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to add the type of dog known as the XL Bully to the list of types of dog that are prohibited for the purposes of section 1 of the Dangerous Dogs Act 1991 ("the 1991 Act"). Once this instrument comes into force on 31st December 2023, the offences in section 1(2) of the 1991 Act will apply in relation to dogs of the type known as the XL Bully. The offence in section 1(3) of the 1991 Act will apply in relation to dogs of the type known as the XL Bully from 1st February 2024.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 The Secretary of State makes this Order in exercise of the powers conferred by section 1(1)(c) and (8) of the Dangerous Dogs Act 1991.

6.2 Article 1 of the Order sets out the coming into force date and the extent of the legislation (England and Wales).

6.3 Section 1(1)(c) of the 1991 Act enables the Secretary of State to designate by order, for the purposes of section 1 of that Act, any dog of a type being a type appearing to the Secretary of State as being bred for fighting or to have the characteristics of a type bred for that purpose. Article 2 of the Order designates any dog of the type known as the XL Bully for the purposes of Section 1 of the 1991 Act. Once this Order comes into force, it will be an offence to breed, sell, advertise, transfer, offer for sale, gift,

abandon or let such dogs stray. It will be an offence for owners of dogs of the XL Bully type not to keep their dogs on a lead and muzzled when in a public space.

6.4 Article 3 of the Order sets out the end date of the "transition period", after which it will be an offence to possess an XL Bully type dog.

7. Policy background

What is being done and why?

7.1 Following the announcement of the Prime Minister on the 15 September, we are taking urgent action to bring forward certain prohibitions and other controls relating to XL Bully dog types under Section 1 of the Dangerous Dogs Act 1991.

7.2 This follows a concerning rise in serious attacks and fatalities, which appear to be driven by this type of dog.

7.3 The principal objective is to introduce controls on the existing population of the XL Bully dog type to reduce the risk that they pose to public safety and to reduce the overall number of dogs of the XL Bully type in the dog population.

7.4 The instrument will add the XL Bully type of dog to the list of types of dog to which the offences in Section 1 of the Dangerous Dogs Act 1991 apply.

7.5 An expert group was convened to develop a conformation standard for the XL Bully dog type to help with the identification of this type of dog as there is no recognised Royal Kennel Club breed standard for the XL Bully (which is also sometimes described as the American XL Bully or American Bully XL). This expert group contained representatives from the police, local authorities, vets and other animal welfare experts. The conformation standard will be published in guidance alongside this instrument.

7.6 Once it comes into force on 31st December 2023 the offences in section 1(2) of the 1991 Act will apply to the XL Bully type. This will mean that all owners of dogs of the XL Bully type must keep their dogs on a lead and muzzled when in a public space. This will reduce the risk that they pose to public safety. It will also mean that anyone doing any of the following will be committing an offence under section 1(2) of the 1991 Act:

- breeding, or breeding from, a dog of the XL Bully type.
- selling, gifting or exchanging XL Bully type dogs (this will include rehoming).
- abandoning or allowing XL Bully type dogs to stray.
- advertising XL Bully type dogs for sale, exchange or gifting.

7.7 These measures should lead to a significant reduction in the number of these dogs in England and Wales over time.

7.8 The offence in section 1(3) of the 1991 Act of possessing a dog to which section 1(1) of the 1991 Act applies or having custody of such a dog will only apply on or after 1st February 2024.

7.9 We intend to set out in a further statutory instrument what owners will be required to do to ensure that they are not committing an offence under section 1(3) from 1st February 2024. A compensation scheme will be set up in accordance with section 1(3)

of the 1991 Act for the payment of compensation to owners of XL Bully types who arrange for them to be destroyed on or before 31st January 2024.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 Relevant legislation is not being consolidated.

10. Consultation outcome

10.1 There is no statutory duty to consult before making this instrument and we have not carried out any public consultation.

11. Guidance

11.1 The conformation standard will be published in guidance which will explain the pertinent characteristics of the XL Bully type. Guidance will also be provided to dog owners and keepers and law enforcers to assist them in identifying this type of dog.

12. Impact

12.1 The impact on business, charities or voluntary bodies is estimated at £680,000-£1.8m with a central estimate of £1m amounting to 10000 dogs. This impact includes the loss of earnings, euthanising unwanted dogs, dealing with unwanted dogs and the costs of compliance associated with the new restrictions.

12.2 There are additional impacts on the public sector including on local authorities, policing and compensation payments.

12.3 A full Impact Assessment has not been prepared for this instrument because impacts on businesses are low and below the £5m per annum impact threshold necessary for a full Impact Assessment.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken will be to provide compensation for those who decide to relinquish dogs of the XL Bully type before the offence of being in possession of an XL Bully breed type under section 1(3) of the Act applies.

14. Monitoring & review

14.1 As this instrument's net annualised impact on business activity is significantly lower than £10 million, a dedicated monitoring or review regime is not considered to be necessary.

14.2 This instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Secretary of State, Thérèse Coffey MP, has made the following statement: In my view, it would not be appropriate to include a statutory review clause in the Dangerous Dogs (Designated Types) (England and Wales) Order 2023 as a requirement to carry out a

statutory review would be disproportionate given the minimal business impact of the Order."

15. Contact

15.1 Companion Animal Welfare Team, CAWSTeam@defra.gov.uk at the Department for Environment, Food & Rural Affairs (Defra) can be contacted with any queries regarding the instrument.

15.2 Marc Casale, Deputy Director for Animal Welfare, at the Department for Environment, Food & Rural Affairs (Defra) can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Secretary of State, Thérèse Coffey MP, at the Department for Environment, Food & Rural Affairs (Defra) can confirm that this Explanatory Memorandum meets the required standard.