EXPLANATORY MEMORANDUM TO

THE DANGEROUS DOGS (EXEMPTION SCHEMES) (ENGLAND AND WALES) (AMENDMENT) ORDER 2024

2024 No. 721

1. Introduction

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

2. Declaration

2.1 Lord Douglas-Miller, Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs confirms that this Explanatory Memorandum meets the required standard.

2.2 Gareth Baynham-Hughes, Director for Animal and Plant Health and Welfare at the Department for Environment, Food & Rural Affairs (Defra) can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 The Dogs Index Team, dogsindex@defra.gov.uk, at the Department for Environment, Food & Rural Affairs (Defra) can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Dangerous Dogs (Compensation and Exemption Schemes) Order 2023 (S.I. 2023/1204) ("the 2023 Exemption Order") and the Dangerous Dogs (Exemption Schemes and Miscellaneous Provisions) (England and Wales) Order 2023 (S.I. 2023/1407) ("the 2023 Rehoming Order"). More detail on the legislative and legal context of the previous SIs is set out in section 6.

4.2 This instrument will extend the 30 June 2024 deadline by which owners of XL Bully dogs must provide Defra with evidence of neutering to the 26 July 2024. It will only apply to XL Bully dogs that were exempted under the 2023 Exemption Order and the 2023 Rehoming Order and were at least 12 months old on 31 January 2024.

4.3 This SI does not change the date by which these dogs must be neutered, which will remain as 30 June 2024.

Where does the legislation extend to, and apply?

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

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

5. Policy Context

What is being done and why?

5.1 The XL Bully breed type was added to the list of prohibited types of dog for the purposes of section 1 of the Dangerous Dogs Act 1991 ("the 1991 Act") following a concerning rise in serious attacks and fatalities, which appear to be driven by this type of dog. The overall objective is to introduce controls on the existing population of XL Bully type dogs, 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.

5.2 This breed type became a prohibited type of dog on 31 December 2023. The 2023 Exemption Order and the 2023 Rehoming Order allowed owners of XL Bully dogs to apply for a Certificate of Exemption to allow them to legally keep their dogs from 1 February 2024. These Orders impose various requirements on holders of these Certificates of Exemption, including requirements in relation to the neutering of XL Bully dogs exempted under those Certificates. Neutering is a population control measure, to prevent further breeding of XL Bully type dogs and thereby meet the objective of reducing the number of XL Bully type dogs in the dog population.

5.3 In the case of XL Bully dogs that were aged over 12 months on the 31 January 2024 ("older XL Bully dogs"), they must be neutered, and evidence that they have been neutered must be provided, by 30 June 2024. If these requirements are not met, the dog's exemption ceases to be valid, and the owner of the dog will be committing an offence under section 1(3) of the 1991 Act. The dog could be seized by the police until the owner has successfully re-applied for a court-approved exemption under the Dangerous Dogs Exemption Schemes (England and Wales) Order 2015.

5.4 The purpose of this instrument is to allow additional time for owners of older XL Bully dogs with a Certificate of Exemption under the 2023 Exemption Order and the 2023 Rehoming Order to submit evidence to Defra to show that their dog has been neutered. It will give owners until 26 July 2024 to submit their evidence. However, older XL Bully dogs must still be neutered on or before 30 June 2024.

5.5 The deadline by which this evidence must be submitted is being extended so that Defra can provide assistance to owners of older XL Bully dogs with the evidence they submit. Our experience of administering the XL Bully dog exemption schemes shows that many owners applied for an exemption very close to the final deadline. A similar pattern is expected in respect of the evidence that needs to be submitted to comply with the neutering requirement. By extending the evidence deadline by a short period, we will be able assist owners who have complied with the key requirement to ensure that their dog has been neutered on or before 30 June 2024 but may struggle to submit the evidence required by the deadline and in the correct form. This will minimise the possibility that they will lose the exempt status of their dog due to their failure to submit the correct evidence on time, without detracting from the overall policy objective of ensuring that older XL Bully dogs are neutered by 30 June 2024

What was the previous policy, how is this different?

5.6 Previously, owners of older XL Bully dogs were required to submit their neutering evidence on or before the 30 June 2024. The guidance Defra has issued sets out a prescribed form to use, which must be completed in part by the owner and in part by a veterinary surgeon.

5.7 This amendment provides for additional time, where it is needed, for the receipt of the completed form. This amendment gives Defra the ability to work with owners to correct errors on forms that may need to be corrected and re-submitted after 30 June 2024, without the risk of the owner being non-compliant and committing an offence.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument relates to the measures which were recently introduced in respect of dogs of the XL Bully breed type by a number of instruments under section 1 of the 1991 Act.

6.2 The Dangerous Dogs (Designated Types) Order 2023 (S.I 2023/1164) added the XL Bully breed type to the list of prohibited types of dog under section 1(1) of the 1991 Act. This instrument came into force on 31 December 2023. On that date, it became an offence for anyone to breed, or breed from, dogs of the XL Bully type, or sell, gift or exchange them. It also became an offence from that date for dogs of this type to be in public if they were not on a lead or muzzled. Finally, it set out a "transition period" in relation to the prohibition in section 1(3) of the 1991 Act which ended on 31 January 2024.

6.3 The 2023 Exemption Order (the Dangerous Dogs (Compensation and Exemption Schemes) Order 2023) outlined the details of the transition period, including a compensation scheme for owners of dogs of this type that were voluntarily euthanised before 31 January 2024 and an exemption scheme under which individuals who owned XL Bully dogs could apply for a Certificate of Exemption during the transition period to allow them to legally keep their dogs from 1st February 2024. This instrument also set out the strict conditions to be attached to a Certificate of Exemption, including the requirement for the dog to be neutered by a specific date depending on its age on 31 January 2024 (article 9). In the case of an older XL Bully dog, it required the holder of a Certificate of Exemption to provide Defra with evidence that the dog had been neutered on or before 30th June 2024.

6.4 The 2023 Rehoming Order (the Dangerous Dogs (Exemption Schemes and Miscellaneous Provisions) (England and Wales) Order 2023) introduced a similar exemption scheme to allow rescue and rehoming organisations to register and keep XL Bully dogs they had taken into their care before 31 October 2023. This Order was subsequently amended by the Dangerous Dogs (Exemption Schemes and Miscellaneous Provisions) (England and Wales) (Amendment) Order 2024 to allow these organisations to register and keep XL Bully dogs that were in their care before 31 December 2023 if they were carrying out rescue and rehoming activities on 31 October 2023. It also extended the application deadline to 22 January 2024.

6.5 This instrument will amend the neutering requirements in the 2023 Exemption Order and the 2023 Rehoming Order that apply to older XL Bully dogs by extending the date by which the holder of a Certificate of Exemption under those Orders must provide evidence to Defra showing that their dog has been neutered from 30 June 2024 to 26 July 2024. Older XL Bully dogs must still be neutered on or before 30 June 2024.

Why was this approach taken to change the law?

6.6 It is not possible to make this change using non-legislative means.

7. Consultation

Summary of consultation outcome and methodology

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

8. Applicable Guidance

8.1 Guidance published alongside the 2023 Exemption Order and 2023 Rehoming Order will be updated to reflect the new deadline for receipt of neutering evidence.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because this is not a regulatory provision and the changes do not impact on businesses.

Impact on businesses, charities and voluntary bodies

9.2 There is no impact on business, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no significant impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 As this instrument's net annualised impact on business activity is zero, a dedicated monitoring or review regime is not considered to be necessary.

10.2 This instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Parliamentary Under Secretary of State, Lord Douglas-Miller has made the following statement: "In my view, it would not be appropriate to include a statutory review clause in the Dangerous Dogs (Exemption Schemes and Miscellaneous Provisions) (England and Wales) (Amendment) Order 2024 as a requirement to carry out a statutory review would be disproportionate given the minimal business impact of the Order."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").