EXPLANATORY MEMORANDUM TO

THE DANGEROUS DOGS (EXEMPTION SCHEMES) (ENGLAND AND WALES) (AMENDMENT) ORDER 2026

2026 No. 602

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.

1.2 This memorandum contains information for the Secondary Legislation Scrutiny Committee.

2. Declaration

2.1 Baroness Hayman of Ullock, 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 Pamela Thompson, Deputy Director for the Transforming Animal Health and Welfare division, at the Department for Environment, Food and Rural Affairs confirms 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. Alternatively, the department can be contacted by telephone: +44 (0) 3459 335577.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes amendments to the Dangerous Dogs Exemption Schemes (England and Wales) Order 2015 (S.I. 2015/138) ("the 2015 Order"), the Dangerous Dogs (Compensation and Exemption Schemes) (England and Wales) Order 2023 ("the 2023 Exemption Order") and the Dangerous Dogs (Exemption Schemes and Miscellaneous Provisions) (England and Wales) Order 2023 ("the 2023 Rehoming Order"). It removes the requirements in these Order for owners and keepers of dogs of banned breed types to hold third-party public liability insurance from 1 July 2026 as such a product will cease to be available from that date. It also amends the 2015 Order and the 2023 Exemption Order so as to require holders of certificates of exemption issued under these Orders to ensure that their exempted dogs do not come into close contact with a child under 12 unless supervised by an adult, which will apply in non-public places including homes.

Where does the legislation extend to, and apply?

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

4.3 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 Five types of dog are prohibited for the purposes of section 1 of the Dangerous Dogs Act 1991. They are the Pit Bull Terrier, the Japanese Tosa, the Fila Brasileiro and the Dogo Argentino and the XL Bully. The XL Bully breed type was added to the list of prohibited types of dog for the purposes of section 1 of the 1991 Act by the Dangerous Dogs (Designated Types) (England and Wales) Order 2023 (S.I 2023/1164) following a noticeable increase in dog attacks and fatalities and the disproportionate involvement of this breed type in such incidents.

5.2 Section 1(3) of the Dangerous Dogs Act 1991 ("the 1991 Act") prohibits the possession of banned breed type of dog, but exemption schemes are in place which allow the owner or keeper of a dog of a banned breed type to lawfully keep the dog on certain conditions. Certificates of exemption issued under those schemes include the conditions which must be complied with for the certificates of exemption to remain valid. The conditions include requirements that the holder of the certificate keep the dog on a lead and muzzled in public, neuter the dog, and have in place third-party public liability insurance for the lifetime of the dog.

Removal of the existing requirement for third-party public liability insurance

5.3 The instrument removes the requirements in these Orders in relation to third-party insurance. This change is being made in response to the withdrawal of the only currently available insurance provider of third-party insurance for banned breed type dogs and is intended to ensure that existing holders of certificates of exemption do not automatically fall out of legal compliance due to the absence of an available product.

5.4 Without the removal of these requirements, holders of certificates of exemption whose insurance expires would breach the conditions of their certificate of exemption, making continued possession of the dog unlawful with no route back into compliance except through a court process. They would be liable to prosecution and their dogs could be seized. It would also not be possible for a person to apply for a certificate of exemption under Part 2 of the 2015 Order following the court's decision to grant a contingent destruction order under section of the Dangerous Dogs Act 1991 as third-party liability insurance must be in place to obtain such a certificate.

5.5 The removal of the insurance condition is therefore necessary to ensure that the current exemption schemes in respect of banned breed types of dog continue to function and do not result in non-compliance due to the unavailability of third-party liability insurance in respect of banned breed types of dog.

5.6 Removal of the insurance requirements does not alter the legal obligation that owners of banned breed dogs follow all remaining conditions of their Certificate of Exemption. Owners remain fully responsible for any harm caused by their dogs to humans or other animals and may be subject to civil claims and court ordered compensation following an incident.

5.7 Removing the condition for third party public liability insurance for banned breed dogs in law does not prohibit dog owners from obtaining insurance where a suitable insurance product exists.

5.8 The current (and sole) insurer will cease to provide new or renew existing insurance policies from 1 July 2026. Dog owners who already have insurance, or who renew ahead of this date, will continue to have a valid insurance product in place until the natural expiry of their policy (or if it becomes invalid under the policy terms and conditions) beyond the 30 June 2026.

Introduction of a new child-safety condition

5.9 This instrument introduces a child-safety condition that will require the holder of a certificate of exemption under the 2015 Order or the 2023 Exemption Order to ensure that their dog does not come into close contact with a child under the age of 12 in any place, other than a public place, unless the dog or the child is being supervised by a person (whether the holder of the certificate or some other person) who is over the age of 18. The condition is intended to reduce the risk of serious injury to children in domestic settings, while allowing exempted dogs to continue living with families where appropriate supervision or separation is in place.

5.10 Evidence from operational partners and injury data indicates that the most serious dog attacks involving prohibited types frequently occur in domestic settings, with younger children being particularly vulnerable. Internal data shows that fatal incidents in the home are concentrated among children under 12, with no recorded fatalities in the 11 to 18 age group in this dataset. Wider evidence also shows that children under 12 are disproportionately represented in dog bite incidents and are more vulnerable due to their developmental stage and inability to interpret dog behaviour. The age threshold therefore targets the group at highest risk, while reflecting established safeguarding expectations and allowing for increasing independence as children grow older.

5.11 The new child-safety condition is intended to provide an additional safeguard in the home and other non-public settings in relation to exempted banned breed type dogs to require adult supervision in line with established safeguarding expectations where such a dog is present around children.

5.12 The child-safety condition will not apply to banned breed dogs that are exempted under the Dangerous Dogs (Exemption Schemes and Miscellaneous Provisions) (England and Wales) Order 2023 (the "2023 Rehoming Order"). This reflects the fact that such dogs are kept in controlled environments by rescue and rehoming organisations, rather than in private domestic settings where the risks addressed by this condition arise.

5.13 The condition will come into effect on 1 November 2026. This allows time for guidance to be issued and for updated certificates of exemption to be provided to holders ahead of the new requirement taking effect.

What was the previous policy, how is this different?

5.14 Previously, third-party public liability insurance was required as a condition of the exemption schemes established by the 2015 Order and the maintenance of third liability insurance was a condition under each exemption scheme in respect of banned breed types of dog. There was no requirement for certificates of exemption to contain a condition aimed specifically at safeguarding children from banned breed-type dogs in a non-public place, including the home. All other conditions of owning an exempted dog remain in place and unchanged.

5.15 Non-legislative options were considered for both measures, including engagement with insurers and wider market testing to identify alternative providers. However, no

suitable alternative insurance product has become available to meet the requirements of the exemption regime.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument amends the 2015 Order, the 2023 Exemption Order and the 2023 Rehoming Order.

6.2 The 2015 Order contains exemption schemes which allow an individual to lawfully keep a banned breed type of dog if certain conditions are met. In particular, it contains a court-approved exemption scheme which applies to dogs of a banned breed type which have been subject to a contingent destruction order under the 1991 Act and allows the owner or keeper of such a dog to apply for a certificate of exemption. The 2023 Exemption Order established an exemption scheme under which individuals who owned XL Bully dogs could apply for a certificate of exemption to allow them to legally keep their dogs from 1 February 2024. The 2023 Rehoming Order established an exemption scheme to allow rescue and rehoming organisations to legally keep XL Bully dogs from 1 February 2024 if they had taken the dogs in by a certain date.

6.3 The amendments remove the provisions in these Orders requiring owners and keepers of banned breed type dogs to have third-party liability insurance as a condition of exemption. The amendments also insert a requirement for certificates of exemption issued under the 2015 Order and the 2023 Order to include a new condition relating to child safety.

Why was this approach taken to change the law?

6.4 Removing the condition for third-party public liability insurance from legislation is the only approach that prevents automatic invalidation of certificates of exemption and owners and keepers of exempted dogs from automatically becoming non-compliant (and subject to prosecution) from failure in the insurance market.

6.5 Amending the existing Orders to add the child safety condition provides a legally enforceable mechanism to support the policy aims. It establishes a minimum standard for supervision or separation in private settings, reinforcing the importance of safeguarding children and helping to reduce the risk of harm. In relation to child safety, guidance and public messaging alone were not considered sufficient to provide a clear and enforceable minimum standard.

7. Consultation

Summary of consultation outcome and methodology

7.1 A full public consultation was not undertaken due to the narrow and targeted nature of the amendments and the need to address an emerging compliance issue following the future unavailability of third-party liability insurance cover in respect of banned breed type dogs.

7.2 Defra have engaged with key stakeholders, including police representatives, and other government departments, to inform both measures.

7.3 Welsh Government officials were engaged in line with the shared legislative framework for dangerous dogs policy (for which powers in Wales are reserved).

8. Applicable Guidance

8.1 The appropriate information pages on GOV.uk will be updated to reflect the changes to the conditions that owners and keepers of banned breed dogs must follow. Defra will also send communications to all dog owners and keepers who have registered their dog on the Dangerous Dogs Index to notify them of the changes and provide guidance on compliance.

8.2 Defra will publish guidance on how dog owners can comply with the child safety condition.

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 the regulatory changes are limited in scope to owners and keepers of dogs of banned breed types and are not expected to result in significant regulatory impact on businesses. However, a De Minimis Assessment has been conducted to assess potential impacts, including the removal of the insurance requirements.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the instrument affects private dog owners and keepers and existing enforcement activities.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because enforcement will continue under existing powers.

9.5 However, removing the mandatory insurance condition carries a risk that victims of dog attacks may have reduced access to compensation where owners of exempt banned breed type dogs do not have the financial means to meet claims, except by the continued availability of civil routes for redress. Owners remain fully liable for damage or injury caused by their dog.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through existing dangerous dog enforcement activity, incident reporting, and engagement with police and local authorities.

10.2 The instrument does not include a statutory review clause because it does not impose new regulatory burdens on businesses and operates within an established enforcement framework.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument removes an existing long-standing requirement (mandatory third-party public liability insurance) due to market unavailability and introduces a new child-safety condition which applies within private domestic settings. These matters are likely to be of interest to the Secondary Legislation Scrutiny Committee.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative 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").