EXPLANATORY MEMORANDUM TO

THE WELFARE OF ANIMALS (DOCKING OF WORKING DOGS' TAILS AND MISCELLANEOUS AMENDMENTS) REGULATIONS 2012

S.R. 2012 No. 387

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Agriculture and Rural Development to accompany the above-named Regulations which were laid under the draft affirmative resolution process before the Northern Ireland Assembly.

1.2. The Rule was approved by resolution of the Northern Ireland Assembly on 15th October 2012 and comes into operation on 1st January 2013.

1.3. These Regulations supplement Section 6 of the Welfare of Animals Act (Northern Ireland) 2011 ("the 2011 Act") which provides for a ban on the docking of dogs' tails unless the tail is removed by a veterinary surgeon for the purpose of medical treatment or to save the dog's life, or subject to an exemption for prophylactic docking of the tails of certain working dogs.

2. Purpose

2.1 The purpose of the Regulations is to set out the requirements to be observed and the evidence to be provided before a veterinary surgeon may certify that a dog is likely to become a working dog. The Regulations also prescribe the form of certification and the permanent identification by microchipping for all working dogs that have their tails docked after the coming into operation of the Regulations.

2.2 The Regulations also make miscellaneous amendments to the Welfare of Animals (Permitted Procedures by Lay Persons) Regulations (Northern Ireland) 2012 (S.R. 2012 No.153) and the Welfare of Farmed Animals Regulations (Northern Ireland) 2012 (S.R. 2012 No.156).

3. Background

3.1. The principle of the exemption for working dogs from the ban on tail docking was decided by a vote in the Northern Ireland Assembly on 1 February 2011 in debates on the Welfare of Animals Bill.

3.2. The objective of section 6 of the 2011 Act is to ban the routine cosmetic docking of dogs' tails. An exemption to the ban at section 6(4) applies to certified working dog's, and is intended to operate where injury to an undocked dog through work may cause more pain and suffering than that of docking the dog's tail as a

puppy. The exemption is therefore justified on welfare grounds for dogs undertaking specified types of work.

3.3. The Act specifies that a dog may be exempt as a working dog if a veterinary surgeon has seen evidence that the dog is likely to be used for work in connection with law enforcement, lawful pest control or the lawful shooting of animals and is a dog of one of the following breeds:-

(1) spaniels of any breed or combination of breeds;
(2) terriers of any breed or combination of breeds;
(3) any breed commonly used for hunting, or any combination of such breeds;
(4) any breed commonly used for pointing, or any combination of such breeds, and
(5) any breed commonly used for retrieving, or any combination of such breeds.

3.4. These Regulations describe and apply this exemption. The Regulations set out the procedure to allow an owner of a potential working dog to apply for an exemption from the tail docking ban. The Regulations specify the evidence to be made available to a veterinary surgeon and set out the certification and identification process that a veterinary surgeon needs to follow to document the tail docking process.

3.5. Under the 2011 Act, a pup can only have its tail docked if it is not more than 5 days old. The 2011 Act also makes it an offence if the owner of the pup, which has its tail docked under the exemption, fails to have the pup identified before it is 8 weeks of age in line with Regulations made by the Department. The Regulations require the breeder to have the pup permanently identified by microchip at the same veterinary practice which carried out the tail docking procedure. This must be done before the pup is 8 weeks of age. It remains the prerogative of a veterinary surgeon to choose to dock a dog's tail or not. Where a veterinary surgeon docks a pup's tail they are encouraged to microchip them at the same time where they feel this is feasible.

4. Consultation

4.1. A 12 week consultation was undertaken for these Regulations from 1st July 2011 to 23rd September 2011.

4.2. The consultation sought the views of stakeholders on the certification process outlined in the Regulations and the insertion of a microchip into the dog (prior to being eight weeks old) for identification purposes.

4.3. Over 690 stakeholders and interested parties were consulted and 30 responses were received. Overall the Regulations were welcomed by

stakeholders and there was significant support for the majority of the proposals.

4.4. Consultation responses led to a few minor amendments to the Regulations.

5. Equality Impact

5.1. Under Section 75 of the Northern Ireland Act 1998 DARD has considered and assessed the Regulations for any equality implications. An equality impact assessment did not have to be carried out as the policy has been screened out. No equality differentials are foreseen on Section 75 groups. A copy of the equality and screening out template has been placed on the DARD website.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment (RIA) has been prepared for The Welfare of Animals (Docking of Working Dogs' Tails and Miscellaneous Amendments) Regulations (Northern Ireland) 2012. Copies can be obtained from Animal Health and Welfare Policy Division, Department of Agriculture and Rural Development for Northern Ireland or from the Department's website (www.dardni.gov.uk).

6.2. DARD has considered how the Regulations meet with the requirement for Better Regulation and has concluded that they will not impose any significant additional burden on owners or keepers of animals.

7. Financial Implications

7.1. The Regulations have a low one-off cost impact on breeders who wish to have their pups docked under the exemption for certain working dogs. However this cost could be recouped if the pup is later sold to a new owner.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Regulations provide for an exemption for working dogs from the ban on tail docking. They set out the certification and identification requirements to be met and will apply to all veterinarians who perform the act of tail docking a working dog, and to any working dog's owner that avails of the exemption. The Regulations are therefore deemed to comply with the requirements of section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. This is stand alone legislation for Northern Ireland and there is no impact on GB devolved administrations.

10.2. In England provisions on the docking of working dogs' tails are contained in the Docking of Working Dogs' (England) Regulations 2007.

10.3. In Wales provisions on the docking of working dogs' tails are contained in the Docking of Working Dogs' (Wales) Regulations 2007.

10.4. In Scotland provisions on the docking of working dogs' tails are contained in the Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2007 (as amended). Tail docking of dogs is banned in Scotland.

10.5. In the south of Ireland a new Animal Health and Welfare Bill includes a clause to ban mutilations, including tail docking of dogs unless it is undertaken by a veterinary surgeon for therapeutic purposes and is necessary for the welfare of the animal.

11. Additional Information

11.1. Not applicable.

12. Contact

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