

**2. Dogs (Amendment) Bill 2016 –
Second Reading approved**

Mr Cretney to move:

That the Dogs (Amendment) Bill 2017 be read a second time.

The President: Item 2, Dogs (Amendment) Bill and I call on the mover, Hon. Member, Mr Cretney.

Mr Cretney: Yes, thank you, Mr President.

5 I would like to take this opportunity to respond to the queries which the Department wished to consider further and which were raised at First Reading last week.

The Lord Bishop raised an issue concerning the age of a dog when it ought to be microchipped. I can confirm that the microchipping can take place from age eight weeks and over. The legislation requires breeders to ensure a puppy is microchipped prior to sale and this could potentially be from weaning after eight weeks, but no earlier. This is the normal age for microchipping puppies as they are moving into new ownership.

10 Following research, Mr Coleman's issue surrounding strict liability appears to have been considered when the original Bill was drafted in the late 1980s. I understand that, at that time, there was particularly bad press in relation to dangerous dogs and the train of thought was that dogs in certain ownership could be dangerous to the public and effectively used as a weapon; thus the requirement to make the offence one of strict liability. But I can confirm that the Department has always adopted a very pragmatic approach to the enforcement of this particular issue and will continue to do so.

15 With regard to Mr Crookall's point regarding the time permitted for a buyer or donee to microchip a dog within 24 hours where required, the Department agrees that this time period is too short, particularly where a weekend or bank holiday falls and veterinary practices are closed. An amendment is therefore being moved by Mr Crookall during clauses stage which the Department will support.

20 Mrs Poole-Wilson raised a concern in relation to the difference between a keeper and an owner, particularly in relation to where a child 'owns' the dog. The legislation clearly states that a child may well be the owner, but the 'keeper' retains the responsibility for ensuring a microchip is implanted. That individual is treated as both keeper and/or head of the household as defined in section 29 of the Dogs Act 1990. The Department is content that the legislation is clear on this point whilst recognising, of course, anything may be tested in a court of law.

25 Hon. Members will recall that the main objective of this Bill is to amend the Dogs Act 1990 to require the keeper of every dog in the Island to ensure that their pet is microchipped and to abolish the licensing and duty regime for dogs in the Island. It was identified that current legal requirements did not provide a failsafe way to identify and trace the owner of a dog. The fitting of an electronic transponder to a pet, commonly referred to as microchipping, is now recognised by animal welfare agencies, including the MSPCA, as the most effective and secure way of permanently identifying a pet and the amendments contained in this Bill will accommodate that.

30 Dispensing with the licensing regime means that dog owners will no longer have to pay an annual fee but will be subject to a one-off payment for the microchipping of their pet or pets. The changes are intended to address problems associated with irresponsible dog ownership and negate the requirement to replace the old and antiquated licensing database which would cost many thousands of pounds.

35 Compulsory microchipping was introduced in the United Kingdom last year and was subsequent to the requirement to have pets microchipped that move between the United Kingdom, the EU and other countries.

45 As already advised to Hon. Members, it is expected that compulsory microchipping will improve animal welfare by making it easier to reunite a stray dog with its owner. The period of confinement for microchipped stray dogs may be reduced which will subsequently reduce the level of stress for a dog when separated from its owner.

I am sure that Hon. Members will join with me in recognising that this new regime will develop further responsible ownership through improved traceability of owners as well as assisting in establishing liability and proving ownership, and a deterrent against dog theft.

I would like to thank Members for their support for this initiative which also received majority public support at the consultation stage.

Mr President, I beg to move that the Dogs (Amendment) Bill be read for the second time.

55 **The President:** Mr Henderson.

Mr Henderson: I beg to second, sir, and reserve my remarks.

60 **The President:** Hon. Members, I put the motion that the Dogs (Amendment) Bill be read for a second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Dogs (Amendment) Bill 2017 – Clauses considered

The President: We turn to the clauses.

65 Perhaps clauses 1 to 3 together, Mr Cretney?

Mr Cretney: Yes, thank you, Mr President.

Clause 1 will give the Act resulting from the Bill its short title.

70 Clause 2 provides for the Act to come into operation following an Appointed Day Order and permits that Order to contain such transitional, incidental and transitory provisions considered appropriate.

Clause 3 provides for the expiration of the enacted Bill, once it has made all the proposed amendments to the 1990 Act, which I will refer to throughout as 'the Act'.

I beg to move that clauses 1 to 3 stand part of the Bill.

75 **The President:** Mr Henderson.

Mr Henderson: I beg to second, Eaghtyrane, and reserve my remarks.

80 **The President:** I put the motion that clauses 1 to 3 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 4, please.

Mr Cretney: Clause 4, Mr President, introduces the proposed amendments to the Act.

85 I beg to move that clause 4 stand part of the Bill.

The President: Mr Henderson.

Mr Henderson: I beg to second, Eaghtyrane.

90 **The President:** I put the question that clause 4 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 5.

95 **Mr Cretney:** Thank you, Mr President.

Clause 5 replaces the whole of Part 1 of the Act and introduces mandatory microchipping of all dogs in lieu of the current licensing system. It also creates appropriate offences.

As mentioned previously there were some minor amendments to a provision relating to the seizing of stray dogs. A further amendment is to be made to these particular provisions to ensure total clarity on where a dog must be in order for it to be seized. My colleague, Mr Coleman, is moving that amendment on behalf of the Department and I would like to take this opportunity to thank Mr Coleman for his input at an early stage into this particular matter.

This clause also introduces duties for dog keepers in respect of approved databases, whereby they must ensure the details contained on the databases are accurate and that changes in respect of ownership are updated on the database within 21 days. It also permits authorised officers to obtain relevant information from the database provider to assist in ascertaining dog ownership.

Additionally, clause 5 authorises a constable, dog warden or authorised officer to seize dogs found outside the curtilage of a dwelling house, and for those persons authorised to either comply with Part 3 of the Act if the dog is not microchipped or, where the dog is microchipped, use information on the database to contact the owner. It imposes a requirement on the owner to collect the dog within three hours. On collection, the person authorised is able to collect a fee of £50 prior to releasing the dog. Provision is made where the dog owner cannot be contacted, or if contacted and refuses to pay the collection fee.

115 I beg to move that clause 5 stand part of the Bill.

The President: Mr Henderson.

Mr Henderson: I beg to second, sir.

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The President: Mr Coleman.

Mr Coleman: Thank you, Mr President.

I bring a minor amendment to Council today with the agreement of the Minister for DEFA, Mr Boot. I was concerned that there remained an ambiguity in section 4(1)(a) in relation to a particular situation where a dog is on the curtilage of a dwelling house but without the permission of the owner of that dwelling house. This is particularly important in relation to open-plan estates. I believe the inclusion of the word 'keeper's' before 'dwelling house' will address this ambiguity.

130 Mr President, I beg to move the amendment standing in my name.

Amendment to clause 5

Page 10, in line 13 insert «keeper's» immediately before 'dwelling house'.

The President: Mr Corkish.

Mr Corkish: I beg to second the amendment standing in Mr Coleman's name, Mr President.

135 **The President:** Dealing with the amendment first: those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

Clause 5 as amended: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 6, Mr Cretney.

140 **Mr Cretney:** Thank you.

Clause 6 amends section 7 of the Act by replacing a reference to the Cruelty to Animals Act 1955 with a reference to the Cruelty to Animals Act 1997.

I beg to move that clause 6 stand part of the Bill.

145 **The President:** Mr Henderson.

Mr Henderson: I beg to second, sir, and reserve my remarks.

150 **The President:** I put clause 6: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 7.

155 **Mr Cretney:** Clause 7 amends section 13 of the Act by inserting a new subsection (1A) which provides that dogs which have been microchipped or returned to their owner are not to be the subject of a notice under that section.

The clause also deletes subsection (4) of section 13 and replaces it with a new subsection which enables a constable to serve a notice on a person who comes to claim a stray dog. This notice will require that person to ensure the dog is microchipped within seven days and creates an offence for failure to comply with the notice.

160 Finally, this clause inserts a new subsection (5) which stipulates any person who seizes a dog and fails to comply with certain requirements commits an offence and they shall be liable to a fine not exceeding £200.

I beg to move that clause 7 stand part of the Bill.

165 **The President:** Mr Henderson.

Mr Henderson: Eaghtyrane, I beg to second and reserve my remarks.

170 **The President:** I put clause 7: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 8, Mr Cretney.

Mr Cretney: Thank you, Mr President.

175 Clause 8 substitutes section 14(4) of the Act. The proposed subsection states that, where a stray dog is put up for sale or gifted by the Chief Constable or the Department as a result of it not being claimed, the buyer or donee has to comply with specific requirements. Among them is a requirement to ensure that where the dog is microchipped, details are updated on the database. It is necessary, however, that where a dog is not microchipped, the buyer or donee must ensure the dog is microchipped within 24 hours and is required to provide evidence of this to the Chief Constable or the Department.

180 I beg to move that clause 8 stand part of the Bill.

The President: Mr Henderson.

185 **Mr Henderson:** Gura mie eu, Eaghtyrane.
I beg to second and reserve my remarks.

The President: Mr Crookall.

190 **Mr Crookall:** Thank you, Mr President.

Members will recall last week that I raised concern in relation to the requirement for a buyer or a donee of a dog to have the dog chipped within 24 hours, as provided for in the proposed amendment to section 14 of the Act containing clause 8 of the Bill. I was concerned that this

195 could be too onerous for this time period to be imposed particularly if a person buys or is gifted a dog on a Friday, say, and it is discovered that the dog is not chipped.

I am happy to say that the Department recognises this was an issue and is happy to amend the Bill as per my proposed amendment, which is intended to ensure microchipping of the dog within 72 hours and to provide evidence it has taken place to the Chief Constable or the Department. This will address the fact that a weekend or a bank holiday may come into play in this matter and ensures no offence is committed through no fault of the buyer or donee.

Mr President, the effect of this amendment is: on page 12, in line 21, to omit 'within 24 hours' and substitute 'within 72 hours'.

Mr President, I beg to move the amendment standing in my name:

Amendment to clause 8

On page 12, in line 21 omit '[within 24 hours]' and substitute 'within 72 hours'.

The President: Mr Anderson.

Mr Anderson: I am happy to second.

The President: I put the amendment first, the amendment to clause 8: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 8, as amended: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 9, Mr Cretney.

Mr Cretney: Yes, thank you, Mr President.

And, in so doing, can I thank the Hon. Member, Mr Crookall, for bringing that to the attention of the Legislative Council last week. I think it again demonstrates Legislative Council properly scrutinising legislation, something that had not been picked up in another place. I think it is something that was worthwhile and I thank Hon. Members for their support in that.

Clause 9 substitutes paragraph (a)(ii) of section 15 of the Act, which currently makes reference to a dog licence being in force in order to allow release of a dog. The new paragraph (a)(ii) permits the release of a dog where it is microchipped or a notice has been issued requiring the dog to be microchipped.

I beg to move clause 9 stand part of the Bill.

The President: Mr Henderson.

Mr Henderson: I beg to second, sir.

The President: Mr Anderson.

Mr Anderson: Yes, Mr President.

Could I just ask the mover, who will hold the readers for the microchips? He might not have that information at the moment but it would be useful to know who has them and how well spread they are throughout the Island.

The President: Mr Cretney.

Mr Cretney: I am sure I will be able to respond to that question imminently –

Mr Anderson: There is no rush.

Mr Cretney: – if Hon. Members are content to just allow myself to be advised on the point. Thank you.

245 The readers for the microchips are held by dog wardens, the MSPCA, vets and the Police. And can I thank Janice Skinner from the Department who is exceedingly helpful in terms of legislation and I think she spent a lot of her time looking at this over a considerable period of time. I hope that satisfies the Hon. Member.

250 **Mr Anderson:** Yes, thank you.

The President: With that, I put the question that clause 9 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 10.

255 **Mr Cretney:** Thank you, Mr President.

Clause 10 updates a reference to the Cruelty to Animals Act 1955 by replacing it with a reference to the Cruelty to Animals Act 1997.
I beg to move clause 10 stand part of the Bill.

260 **The President:** Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.
I beg to second and reserve my remarks.

265 **The President:** I put clause 10: those in favour, say aye; against, no. The ayes have it. The ayes have it.
Clause 11.

270 **Mr Cretney:** Clause 11 amends section 25 of the Act by deleting reference to section 4(2). Section 4(2) will no longer exist as it is to be replaced by the newly inserted Part 1.
I beg to move that clause 11 stand part of the Bill.

The President: Mr Henderson.

275 **Mr Henderson:** Gura mie eu, Eaghtyrane.
I beg to second and reserve my remarks.

The President: I put clause 11: those in favour, say aye; against, no. The ayes have it. The ayes have it.
280 Clause 12.

Mr Cretney: Thank you, Mr President.
Clause 12 removes reference to sections 4(2), 5(1) in section 27A as a consequence of other revisions made by the Bill, particularly in relation to the replacement of Part 1.

285 This clause also makes consequential amendments in relation criminal proceedings as a result of the removal of the licensing system.
I beg to move that clause 12 stand part of the Bill.

The President: Mr Henderson.

290 **Mr Henderson:** Gura mie eu, Eaghtyrane.
I beg to second and reserve my remarks.

295 **The President:** I put clause 12: those in favour, say aye; against, no. The ayes have it. The
ayes have it.
Clause 13.

300 **Mr Cretney:** Clause 13 amends section 28 of the Act by conferring on the Department power
to make regulations prescribing anything which is necessary or convenient for the
administration of the Act. Any such regulations are to be laid before Tynwald.
I beg to move that clause 13 stand part of the Bill.

The President: Mr Henderson.

305 **Mr Henderson:** Gura mie eu, Eaghtyrane.
I beg to second, sir, and reserve my remarks.

310 **The President:** I put clause 13: those in favour, say aye; against, no. The ayes have it. The
ayes have it.
Clause 14.

315 **Mr Cretney:** Clause 14 deletes subsections (5) and (6) of section 29 of the Act as they concern
the licensing system which the Bill is proposing to remove.
I beg to move that clause 14 stand part of the Bill.

The President: Mr Henderson.

320 **Mr Henderson:** Gura mie eu, Eaghtyrane.
I beg to second, sir, and reserve my remarks.

The President: I put clause 14: those in favour, say aye; against, no. The ayes have it. The
ayes have it.
Clause 15, sir.

325 **Mr Cretney:** Clause 15 amends section 30 of the Act by inserting new definitions of the terms
'microchip', 'qualified person' and 'approved database'. It also removes certain definitions which
are no longer required as a consequence of the licensing system being repealed.
I beg to move that clause 15 stand part of the Bill.

330 **The President:** Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane. I beg to second, sir.

335 **The President:** I put clause 15: those in favour, say aye; against, no. The ayes have it. The
ayes have it.
Clause 16, Mr Cretney.

Mr Cretney: Yes, thank you, Mr President.

340 The final clause: clause 16 repeals Schedule 1 which is no longer required as it concerns the
dog licence regime, which is to cease.

I would like to thank Hon. Members once again for their co-operation in terms of facilitating
taking this Bill through its stages so far. It is very important that it is in place before April next
year and I think that Hon. Members have been helpful in identifying areas which could benefit
from improvement. I thank them for that.

345 I beg to move that clause 16 stand part of the Bill.

The President: I put clause 16: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Thank you, Hon. Members.

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