

# THE DOGS FOULING OF LAND ACT

Teaching your dog obedience training can be simple and fun with the correct information and some patience. I'm often asked about what the law says about dog fouling – a problem that seems to prevail thanks to irresponsible dog owners. This remains a hot topic and hopefully my national campaign for responsible dog ownership will help make changes. **In the mean time, here is the Dogs Fouling of Land Act 1996, in full.**

## Dogs (Fouling of Land) Act 1996

**An Act to make provision with respect to the fouling of land by dogs. [17th June 1996]**

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: –

### 1. Land to which Act applies

- (1) Subject to subsections (2) to (4) below, this Act applies to any land which is open to the air and to which the public are entitled or permitted to have access (with or without payment).
- (2) This Act does not apply to land comprised in or running alongside a highway which comprises a carriageway unless the driving of motor vehicles on the carriageway is subject, otherwise than temporarily, to a speed limit of 40 miles per hour or less.
- (3) This Act does not apply to land of any of the following descriptions, namely –
  - (a) land used for agriculture or for woodlands;
  - (b) land which is predominantly marshland, moor or heath; and
  - (c) common land to which the public are entitled or permitted to have access otherwise than by virtue of section 193(1) of the [1925 c. 20.] Law of Property Act 1925 (right of access to urban common land).
- (4) Where a private Act confers powers for the regulation of any land, the person entitled to exercise those powers may, by notice in writing given to the local authority in whose area the land is situated, exclude the application of this Act to that land.
- (5) For the purposes of this section, any land which is covered shall be treated as land which is “open to the air” if it is open to the air on at least one side.
- (6) In this section –
  - “agriculture” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, and the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds;
  - “carriageway” has the same meaning as in the [1980 c. 66.] Highways Act 1980;
  - “common land” has the same meaning as in the [1965 c. 64.] Commons Registration Act 1965;
  - “speed limit” means a speed limit imposed or having effect as if imposed under the [1984 c.27.] Road Traffic Regulation Act 1984.

### 2. Designation of such land

- (1) A local authority may by order designate for the purposes of this Act any land in their area which is land to which this Act applies; and in this Act “designated land” means land to which this Act applies which is for the time being so designated.
- (2) The power conferred by subsection (1) above includes power to designate land either specifically or by description, and to revoke or amend orders previously made.

- (3) The Secretary of State shall by regulations prescribe the form of orders under subsection (1) above, and the procedure to be followed in the making of such orders.
- (4) Such regulations shall in particular include provision requiring local authorities to publicise the making and effect of such orders.

### **3. Offence**

- (1) If a dog defecates at any time on designated land and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless –
  - (a) he has a reasonable excuse for failing to do so; or
  - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
- (2) A person who is guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) Nothing in this section applies to a person registered as a blind person in a register compiled under section 29 of the [1948 c. 29.] National Assistance Act 1948.
- (4) For the purposes of this section –
  - (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
  - (b) placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land; and
  - (c) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces, shall not be a reasonable excuse for failing to remove the faeces.

### **4. Fixed penalty notices**

- (1) Where on any occasion an authorised officer of a local authority finds a person who he has reason to believe has on that occasion committed an offence under section 3 above in the area of that authority, he may give that person a notice offering him the opportunity of discharging any liability to conviction for that offence by payment of a fixed penalty.
- (2) Subsections (2) to (8) of section 88 of the [1990 c. 43.] Environmental Protection Act 1990 shall apply for the purposes of this section as they apply for the purposes of that section but as if references to a litter authority were references to a local authority.
- (3) In subsection (8) of that section as it applies for the purposes of this section “chief finance officer”, in relation to a local authority, means the person having responsibility for the financial affairs of the authority.
- (4) In this section “authorised officer”, in relation to a local authority, means any employee of the authority who is authorised in writing by the authority for the purpose of issuing notices under this section.
- (5) In subsection (4) above, the reference to any employee of the authority includes references to—
  - (a) any person by whom, in pursuance of arrangements made with the authority, any functions relating to the enforcement of this Act fall to be discharged; and
  - (b) any employee of any such person.

### **5. Orders and regulations by Secretary of State**

- (1) Any power of the Secretary of State to make an order or regulations under this Act shall be exercisable by statutory instrument.

- (2) A statutory instrument containing an order or regulations under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **6. Effect of Act on byelaws**

- (1) Subsections (2) and (3) below apply to any byelaw made by a local authority which has the effect of making any person in charge of a dog guilty of an offence if –
- (a) he permits the dog to defecate on any land; or
  - (b) in a case where the dog defecates on any land, he fails to remove the faeces from the land.
- (2) In so far as any byelaw to which this subsection applies would, apart from this subsection, have effect in relation to any designated land, the byelaw –
- (a) shall cease to have effect in relation to the land; or
  - (b) where it is made after the order under section 2(1) above, shall not have effect in relation to the land.
- (3) In so far as any byelaw to which this subsection applies still has effect at the end of the period of 10 years beginning with the day on which this Act comes into force, it shall cease to have effect at the end of that period in relation to any land to which this Act applies.
- (4) Where any omission would, apart from this subsection, constitute an offence both under section 3 above and under any byelaw other than one to which subsections (2) and (3) above apply, the omission shall not constitute an offence under the byelaw.

## **7. Interpretation**

- (1) In this Act “local authority” –
- (a) in relation to England, means any unitary authority or any district council so far as they are not a unitary authority; and
  - (b) in relation to Wales, means the council of any county or county borough.
- (2) The following are unitary authorities for the purposes of subsection (1)(a) above, namely –
- (a) any county council so far as they are the council for an area for which there are no district councils;
  - (b) the council of any district comprised in an area for which there is no county council;
  - (c) any London borough council;
  - (d) the Common Council of the City of London; and
  - (e) the Council of the Isles of Scilly.

## **8. Short title, commencement and extent**

- (1) This Act may be cited as the Dogs (Fouling of Land) Act 1996.
- (2) This Act shall come into force at the end of the period of two months beginning with the day on which it is passed.
- (3) This Act extends to England and Wales only.