

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

**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 are laid under the draft affirmative resolution process before the Northern Ireland Assembly.
- 1.2. 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 the 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 dogs, 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 and is attached to this memorandum at Annex A.
- 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 will 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**

- 12.1. Kate Davey at the Department of Agriculture and Rural Development.  
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## **Regulatory Impact Assessment – The Welfare of Animals (Docking of Working Dogs’ Tails and Miscellaneous Amendments) Regulations (Northern Ireland) 2012**

***A draft statutory instrument to support the requirements for certification and identification of working dogs exempt from the ban on tail docking of dogs contained in Section 6 of the Welfare of Animals Act (NI) 2011.***

### **DARD**

**14 May 2012**

### **Introduction**

This document sets out the impact of The Welfare of Animals (Docking of Working Dogs’ Tails and Miscellaneous Amendments) Regulations (Northern Ireland) 2012.

Section 6 of the Welfare of Act (Northern Ireland) 2011 (the Act), when commenced bans the tail docking of dogs, unless the whole or part of the dog’s tail is removed by a veterinary surgeon for the purpose of medical treatment, or in order to save the dogs life where it is not reasonably practicable to have the whole or part of the tail removed by a veterinary surgeon. The Act also provides an exemption for certified working dogs that are not more than 5 days of age. The Act sets out that tail docking can be permitted for certified working dogs of the following breeds that are involved in law enforcement, lawful pest control or lawful shooting of animals:-

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;
5. Any breed commonly used for retrieving, or any combination of such breeds.

The scope of the Regulations is to set out the identification and certification requirements which must be met before a veterinary surgeon can dock the tail of any breed of working dogs specified above.

## ***DOCKING OF DOGS' TAILS***

### **Issue**

1. The Welfare of Animals (Docking of Working Dogs' Tails and Miscellaneous Amendments) Regulations (Northern Ireland) 2012 made under Section 6 (5) of the Welfare of Animals Act (NI) 2011 set out the requirements to be observed before a veterinary surgeon may certify that a dog is a working dog and may be exempted from the tail docking ban. The Regulations specify the evidence required, which indicates that the dog is likely to be used for certain types of work, and the microchipping requirements, including that microchipping must be carried out at the same veterinary practice where the tail docking procedure took place. In addition, the Schedule sets out the content of the certificate to be completed by a veterinary surgeon when certifying a working dog.

### **Scale of Impact**

2. There is limited statistical information available on the different breeds of working dogs in Northern Ireland but it is estimated that 10,000 to 11,000 pups annually could become working dogs. The certification scheme in these Regulations will provide for the docking of certain working dogs' tails to continue.

### **Benefits**

3. The benefits of the certification arrangements are that it provides the option for certain dog owners to have a dog's tail docked if the dog is likely to become a working dog as described in the Welfare of Animals Act (NI) 2011. The conditions make it difficult to circumvent the ban as the pup must be microchipped either by the veterinary surgeon who carried out the docking, or by a competent person working at the same veterinary practice (that carried out the tail docking). This requirement is aimed at closing a "loophole" that has arisen in England and Wales following the introduction of similar legislation in 2007 and is intended to minimise the risk of substitution of pups and counter the possibility of a certificate being copied and applied to other pups.
4. It also ensures a standardisation of the evidence that needs to be submitted before a veterinary surgeon can dock an exempted dog's tail, and a recognised certification process for all newly docked working dogs.
5. The Regulations meet the concerns of hunting groups about the welfare of their dogs given the possibility of tail injury while working, and also the financial consequences of having to meet the veterinary costs for a tail injury (of an undocked dog).

## **Consultation**

6. The certification process is based on the current arrangements which are in force in England. Those arrangements were drawn up by DEFRA, in conjunction with the Royal College of Veterinary Surgeons (RCVS), and are similar to the arrangements in Wales. However, as the English and Welsh certification process has been operational for 3-4 years DARD has been able to build on the lessons learned in Britain to make the certification arrangements here as robust as possible. A 12 week public consultation took place during 1 July 2011 – 23 September 2011. In addition to press notices, over 690 stakeholders, interested parties (including VetNI) and all registered dog breeders in Northern Ireland were individually notified of the consultation. There were 30 written responses to the consultation. Overall the Regulations were welcomed by all stakeholders and there was significant support for the majority of the proposals. A summary of the comments can be viewed on the DARD website.

## **Avoidance and Enforcement**

7. It is intended that when section 6 of the 2011 Act is commenced the ban on showing docked dogs (set out in section 6(12) of the Act) will reduce the demand for docking in non-working dogs. However, it is possible that there could still be attempts for dogs to be docked for cosmetic reasons and where there is no intention for the dogs to become working dogs. While the certification and identification process here will be robust, an owner may still attempt to provide a veterinary surgeon with false evidence to say that the dog presented will work. However, the nature of the evidence required should make this prohibitively difficult. In addition, the owner will have to sign the certificate on the understanding that he commits an offence by providing false information and may be subject to prosecution.

## **Certification and Evidence**

8. VetNI, the RCVS (Royal College of Veterinary Surgeons) and the BVA (British Veterinary Association) were included in the consultation as there is a requirement in the Regulations that the evidence that the dog is likely to be a working dog has to be provided to the veterinary surgeon before carrying out the tail docking procedure. There is also a requirement that the microchipping of the dog takes place at the same veterinary practice, where the tail docking procedure was undertaken, before the dog is eight weeks old. The veterinary surgeon will be required to sign the certificate to confirm he/she has seen the evidence, docked the dog's tail and within 8 weeks identified the dog with a microchip.
9. The evidence base has been chosen because the tail docking procedure must be carried out when the dog is no older than 5 days of age. Therefore, the owner must show evidence that the dog is likely to work in the future. Such evidence must indicate that the dog will either work as a police, HMRC or Prison dog, be

involved in lawful pest control or that it will be used in lawful shooting of animals. Other forms of evidence were considered, but those specified are the most robust. The owner of the dog will also have to present the dam of the pups for verification of the breed.

### **Costs and Savings**

10. The Regulations will generally have a low one-off cost impact, and possible savings could also be made due to economies of scale. Assuming that only those dogs which are permitted to be docked under the Regulations are actually docked, compared to the current position where any dog can be docked by a veterinary surgeon, the total number of dogs being docked should fall. It may be the case that fewer dogs may be docked illegally by lay people and more dogs may be presented to vets for docking, which will have implications for vets' time and costs. However, it is possible that the breeder can recoup any additional costs when selling the docked dog.
  
11. The microchipping procedure in most cases will be carried out at a later time to the docking but before the dog reaches 8 weeks of age. Under the Dogs (Licensing and Identification) Regulations (Northern Ireland) 2012 which came into operation on the 9 April 2012 all dogs must be microchipped by 12 weeks and from 1 January 2013 this age reduces to 8 weeks. However microchipping under the Licensing and Identification Regulations can be undertaken by anyone not just at a veterinary surgery as proposed under these Regulations, so it may be slightly more expensive to have dog microchipped under these Regulations. Microchipping is the only way of uniquely and permanently identifying a legally docked dog and, even if imposing a short-term cost, it will ultimately benefit owners over the dog's life (both by identifying it as a legally docked dog and also if it is lost or stolen),
  
12. The cost of microchipping and certifying the dog is the only additional legal requirement that may increase costs for owners of working dogs. In England it costs approximately £28 to dock a pup's tail, complete the certification process and microchip it. No breakdown of this cost is available; however assuming the actual tail docking accounts for 50% of the cost, this leaves £14 for certification and microchipping.

<b>Estimated cost of issuing a certificate and microchipping</b>	<b>Maximum number of dogs docked</b>	<b>Estimated cost to all working dog owners</b>
£14	10 -11,000	£140 - £154,000

13. It is likely that the cost of enforcement to the Councils will be low. It is anticipated that the majority of owners of working dogs will comply with the new legal obligations. However where a dog owner fails to comply this could lead to investigation by a council animal welfare inspector and, where the evidence exists, prosecution could be initiated by councils for offences such as the illegal tail docking of a dog, failure to properly identify the dog, remove the dog to another country for tail docking or giving false information to a veterinary surgeon to obtain a tail docking certificate. The maximum penalty for illegal tail docking is an unlimited fine and or 2 year imprisonment.

**Declaration**

*I have read the draft Regulatory Impact Assessment on the docking of dogs' tails and I am satisfied that the benefits justify the costs.*

**Signed**.....

**Date**.....

**Michelle O'Neill**  
**Minister for Department of Agriculture and Rural Development**