

## POLICY NOTE

### THE DANGEROUS DOGS (DESIGNATED TYPES) (SCOTLAND) ORDER 2024

#### SSI 2024/31

The above instrument was made by the Scottish Ministers in exercise of the powers conferred by section 1(1)(c) of the Dangerous Dogs Act 1991 ("the 1991 Act"), and all other powers enabling them to do so. The instrument is subject to negative procedure.

#### Summary Box

The Order designates a type of dog known as the XL Bully dog as being of a type appearing to the Scottish Ministers to be bred for fighting or to have the characteristics of a type bred for that purpose.

From 23 February 2024, the effect of this designation means an owner of an XL Bully dog must ensure they comply with the safeguards that relate to designated dogs as provided for in section 1(2) of the 1991 Act, including ensuring their dog is kept on a muzzle and on a lead when in a public place. These safeguards will help protect communities from the effect of XL Bully dogs.

From 1 August 2024, the offence in section 1(3) and (7) of the 1991 Act will come into effect, criminalising possession of an XL Bully dog unless an exception exists under the 1991 Act (e.g. possession under a power of seizure) or, an exemption has been granted or such an exemption has been applied for but not yet determined.

XL Bully dog owners will be able to keep their dogs beyond 31 July 2024 if they wish, but will be required to seek an exemption to do so. The process of how exemptions can be sought will be provided in a separate future Order under section 1(5) of the 1991 Act.

#### Policy Objectives

The designation of the XL Bully dog under the 1991 Act will help protect communities from the potential harmful effect of XL Bully dogs including where XL Bully dogs have been moved to Scotland following the introduction of recent controls on XL Bully dogs in England and Wales.

The designation of the XL Bully dog through the Order means that from 23 February 2024, it will be an offence under Scots law for a person in Scotland to:

- Breed, or breed from, an XL Bully dog
- Sell or exchange an XL Bully dog, or offer, advertise or expose an XL Bully dog for sale or exchange
- Make or offer to make a gift of such a dog or advertise or expose an XL Bully dog as a gift
- Allow an XL Bully dog owned by the person or of which he is for the time being in charge to be without a muzzle and lead in a public place
- Where an owner, abandon an XL Bully dog or where either an owner or for the time being in charge, allow an XL Bully dog to stray

These new safeguards are intended to protect communities from the potential harmful effect of XL Bully dogs. While responsibility for a dog of any breed or type always rests with the owner and/or person in charge of a dog, it is considered necessary for these specific new safeguards on XL Bully dogs to be brought in following the impact in Scotland of similar recent UK Government controls in England and Wales.

The effect of those controls has been to encourage English and Welsh XL Bully dog owners to transfer their dogs to owners in Scotland as the UK Government legislation is not clear in terms of its effect on English and Welsh XL Bully dog owners who seek to, for example, sell their dogs outside of England and Wales within another country in the UK. It is as a result of this situation that it is considered necessary to replicate the safeguards in Scotland which have been introduced in England and Wales so that English and Welsh XL Bully dog owners can no longer, for example, sell their dogs to people in Scotland, as this will be an offence under Scots law.

On 1 August 2024, the offence in section 1(3) and (7) of the 1991 Act will come into effect, criminalising possession of an XL Bully dog unless an exception exists under the Act, an exemption has been granted or an exemption has been applied for but not yet determined.

It should be noted XL Bully dog owners will be able to keep their dogs beyond 31 July 2024 if they wish, but will be required to seek an exemption to do so. In seeking an exemption, dog owners will be committing to adhere to certain safeguards including those listed above. The details of how exemptions can be sought will be provided in a separate future Order under section 1(5) of the Dangerous Dogs Act 1991.

### **EU Alignment Consideration**

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

### **Consultation**

This Order has been made as a direct response to the new controls in England and Wales on XL Bully dogs and the impact this has created in Scotland. Within this context, no formal consultation has been undertaken.

However, the Scottish Government has engaged over a period of months with key dog control interests in Scotland to understand their views on the potential for the introduction of new safeguards in Scotland on XL Bully dogs. A range of views have been offered through this engagement with many views offered indicating caution about introducing in Scotland the controls introduced in England and Wales. This caution related to the policy merits of the new safeguards. It is, as noted above, a decision made in light of the undue impact on Scotland of the new controls in England and Wales.

### **Impact Assessments**

This Order requires any person who either owns an XL Bully dog or who is a person in charge of an XL Bully dog to ensure they comply with certain safeguards. An owner will be able to retain their dog subject to obtaining an exemption, though no action to seek an exemption is required through this Order as it is in a future Order that will provide for the arrangements for exemption as well as for seeking compensation for any owner who decides not to retain their dog. What this means is any XL Bully dog owner in Scotland will be able

to, if they wish, keep their dogs subject to agreeing to adhere to the new safeguards listed at section 1(2) of the 1991 Act as well as others that will be provided for in the future Order.

It is not known how many XL Bully dogs there are in Scotland. This is within the context of an unknown number of XL Bully dogs in the UK as a whole.

While estimates are challenging, for the purposes of this Order it is suggested that approximately between 5,000 to 15,000 XL Bully dogs may be in Scotland. This reflects an estimated range of 50,000 to 150,000 XL Bully dogs in England and Wales (this range reflects evidence provided to the House of Commons by expert witnesses scrutinising the legislation bringing in the new controls in England and Wales).

Within this context of the limited nature of the impact of the new safeguards on XL Bully dog owners and a general lack of information that is available, no formal impact assessments have been prepared.

### **Financial Effects**

The Minister for Victims and Community Safety confirms that no BRIA is necessary as the instrument has no significant financial effects on the Scottish Government, local government or on business.

Scottish Government  
Justice Directorate

31 January 2024