

EXPLANATORY MEMORANDUM TO
THE MICROCHIPPING OF DOGS (ENGLAND) (AMENDMENT) REGULATIONS
2022

2022 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is to extend the existing sunset clause contained in regulation 1(c) of the Microchipping of Dogs (England) Regulations 2015 (“the 2015 Regulations”) for a period of two years so they continue to have effect until 23 February 2024.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

- 5.1 The Rt Hon Lord Goldsmith of Richmond Park has made the following statement regarding Human Rights:

“In my view the provisions of the Microchipping of Dogs (England) (Amendment) Regulations 2022 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The 2015 Regulations came into force on 24 February 2015. From 6th April 2016 all keepers of dogs in England are required to have their dog microchipped. The details of the dog and the keeper’s contact details are to be recorded on a database. They also establish a regulatory regime to ensure compliance with this requirement. Regulation 1(c) of the 2015 Regulations currently provides that the instrument will cease to have effect at the end of the period of seven years beginning with the day on which the Regulations comes into force. This instrument amends regulation 1(c) to extend that period from seven to nine years. The 2015 Regulations will now cease to have in effect on 24 February 2024. Regulation 18 provides for the operation of the 2015 Regulations to be reviewed from time to time. The first review took place in 2021. Evidence collated for this review has demonstrated that microchipping legislation is still seen as an important and necessary means to achieve the desired policy

objectives. The review also highlighted areas for improvements in the existing regulatory requirements.

7. Policy background

What is being done and why?

- 7.1 The 2015 Regulations introduced a requirement that, from April 2016, all keepers of dogs in England must have their dog microchipped with their and their dog's details recorded on a compliant microchipping database. The 2015 Regulations set out requirements for the microchips and databases that must be met to be considered compliant. The provisions were designed to benefit animal welfare by reducing the number of dogs that need to be kennelled, re-homed or put down because their keepers could not be traced.
- 7.2 Regulation 18 of the 2015 Regulations set out a process requiring the Secretary of State to review them periodically and publish his conclusions in a report. The report must (i) set out the objectives intended to be achieved by these Regulations; (ii) assess the extent to which those objectives are achieved; and (iii) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in a less burdensome way. The first report was due to be published within five years of the 2015 Regulations coming into force, which was 24 February 2020.
- 7.3 The intention as set out at paragraph 12 of the Explanatory Memorandum to the 2015 Regulations was for the legislation to be amended as necessary following this first review.
- 7.4 Defra has carried out a post implementation review of the 2015 Regulations which is due to be published in December 2021. The review identified areas where the effectiveness of the objectives in the 2015 Regulations could be improved. Defra will issue a public consultation inviting views on these policy proposals in early 2022.
- 7.5 The Government's intention is to lay a new set of regulations in 2022 making changes to the existing 2015 Regulations, as well as introducing compulsory cat microchipping. It will not be possible for these regulations to come into force before 24 February 2022 due to the need to carry out the public consultation referred to in paragraph 7.5 before changes to the 2015 Regulations can be made.
- 7.6 The 2015 Regulations contains a sunset clause that means that they cease to have effect seven years after coming into force, that is on 24 February 2022 (regulation 1(c)).
- 7.7 To ensure that the statutory microchipping regime remains in place until the new set of regulations comes into force, this instrument extends the existing sunset clause by two years.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 These regulations do not consolidate any provisions.

10. Consultation outcome

10.1 Defra carried out a targeted consultation exercise in November 2021. Defra wrote to 36 key stakeholders who were previously consulted on the post implementation review of the 2015 Regulations. Defra received 19 responses. 16 responses supported extending the sunset clause contained in the 2015 Regulations by two years. Three responses favoured the removal of the sunset clause entirely. All respondents were in favour of taking action to ensure the 2015 Regulations remained in force beyond 24 February 2022.

11. Guidance

11.1 No guidance will be issued with this instrument.

12. Impact

12.1 There is no new impact on business, charities or voluntary bodies.

12.2 There is no new impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument. The full impact assessment previously prepared of the effect the Microchipping Regulations 2015 on the costs of business and the voluntary sector is still extant.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses but the instrument does not add new impacts.

14. Monitoring & review

14.1 Regulation 18 of the 2015 Regulations, requires the Secretary of State from time to time to review the objectives intended to be achieved by the Regulations; the extent to which those objectives have been achieved and whether they could be achieved in a less burdensome way. The first review took place in 2021 and demonstrated that microchipping legislation is still seen as an important and necessary means to achieve the desired policy objectives, but that certain areas of the regulations would benefit from improvement. A public consultation proposing specific improvements is being prepared to address this.

15. Contact

15.1 Craig Lee at the Department for Environment, Food and Rural Affairs Telephone: 0208 026 6632 or email: craig.lee@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Marc Casale, Deputy Director for Animal Welfare, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 Lord Goldsmith of Richmond Park at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.