

EXPLANATORY MEMORANDUM TO
THE ANIMALS (PENALTY NOTICES) (ENGLAND) REGULATIONS 2023
2023 No. 1350

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 His Majesty.

2. Purpose of the instrument

2.1 This instrument will allow for penalty notices to be issued for certain ‘relevant offences’ under existing animal health and welfare and dangerous dog legislation. Penalty notices will be issued by appointed enforcement authorities listed in the instruments for the listed offences.

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 (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is where the instrument produces a practical effect) is England.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 The Act provides for the issuing of penalty notices to enforce animal health and welfare offences that are specified in regulations made under sections 1(2) and 2(2) of the Act.¹ This instrument exercises those powers, and a power in section 1(4) to specify relevant enforcement authorities.

6.2 This instrument is subject to the negative procedure per the Act, section 7(3).

7. Policy background

7.1 The Animals (Penalty Notices) Act 2022 fulfils an ambition to provide regulators and enforcers with a flexible and proportionate tool to promote compliance with animal health and welfare legislation, through the introduction of penalty notices.

7.2 Penalty notices will add to and complement the current enforcement regime of advice and guidance, warnings, and prosecution. Penalty notices are not intended to act as a

¹ [Animals \(Penalty Notices\) Act 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2022/12/section/1)

punishment for serious offences but rather as a proportionate deterrent to redirect behaviour in line with the law.

- 7.3 Penalty notices will not replace existing enforcement measures and advice and guidance is, when appropriate, seen as our most impactful and effect tool in supporting animal keepers and business in meeting their legal obligation. Penalty notices aim to offer a proportionate mid-range intervention for enforcers between advice and guidance and prosecution, to help support a fairer and more proportionate enforcement system.
- 7.4 Penalty notices offer an individual the option of discharging their criminal liability to prosecution, when an offence has been committed, by paying a financial penalty up to a maximum of £5,000.
- 7.5 The Animals (Penalty Notices) Act 2022 provides powers to create regulations enabling the use of penalty notices for relevant offences listed in the primary legislation mentioned in the Act. This instrument specifies the offences which may be the subject of a penalty notice. These offences, which span a range of legislation relating to kept animals have been selected following responses to a public consultation.
- 7.6 Penalty notices for relevant offences will be issued by enforcement authorities, which are specified in this instrument. Penalty notices for specified dangerous dogs' offences will be issued by constables, as per section 2 of the Act.

8. European Union Withdrawal and Future Relationship

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

9. Consolidation

- 9.1 None.

10. Consultation outcome

- 10.1 During the passage of the Act, Ministers committed to consult with relevant stakeholders and enforcement bodies to identify appropriate offences for penalty notices to be an available enforcement option.
- 10.2 A public consultation entitled "*Enforcement of animal health and welfare offences*"² ran for eight weeks from 20 May 2023 to 20 July 2023. The consultation sought views on the scope of animal health and welfare offences that could be covered by penalty notices and how penalty notices might work in practice.
- 10.3 The consultation received 129 responses from a wide range of stakeholders. The majority of respondents supported the introduction of penalty notices as an enforcement option for offences under legislation governing animal welfare, animal licensing, pet and equine identification, animal health, import of live animals, POAO (Products of Animal Origin) and ABP (Animal By-Products). The levels of support from respondents for introducing penalty notices for some or all offences within these areas ranged from 86% to 91%.

² [Penalty notices for animal health and welfare offences \(www.gov.uk\)](https://www.gov.uk)

10.4 Officials conducted separate engagement with relevant stakeholders regarding the inclusion of offences under the Dangerous Dogs Act 1991. Support was expressed for making penalty notices available for offences under section 3 of the Dangerous Dogs Act 1991, as is done in this instrument.

11. Guidance

11.1 This instrument will be accompanied by statutory guidance prepared under section 4(3) of the Act. Enforcement authorities and constables will need to have regard to this guidance when considering whether to issue a penalty notice and deciding the amount to be specified in the notice.

11.2 Defra will also publish the guidance on the gov.uk website.

12. Impact

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

12.2 The impact on the public sector is minimal as introducing penalty notices does not increase additional obligations on enforcement authorities or introduce any new offences to investigate or enforce. Penalty notices serve as an alternative option to prosecution, and the costs of investigating and administering penalty notices can be retained from income received from paid penalty notices.

12.3 A full Impact Assessment for this instrument has not been completed because the annual costs to businesses from this instrument are below the de minimis threshold.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The legislation does not create any new burden on small businesses, as it does not create new offences. The purpose of the legislation is to offer when appropriate an alternative to prosecution, to allow an individual or business the option to discharge their liability for an offence.

14. Monitoring & review

14.1 The instrument does not include a statutory review clause. To assess the effectiveness of this instrument, enforcement authorities are already required under section 6 of the Act to report the number of penalty notices issued, the corresponding amounts, and the related offences for each year.

15. Contact

15.1 Adam Diep at the Department of Environment, Food and Rural Affairs. Telephone: 02082256962 or email: adam.diep@defra.gov.uk can be contacted with any queries regarding the instrument.

15.2 Pamela Thompson, Deputy Director for Transforming Farm Animal Health and Welfare at the Department of Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

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