



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH**

P R O C E E D I N G S

D A A L T Y N

HANSARD

Douglas, Tuesday, 14th February 2012

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Present:

The President of the Council (Hon. C M Christian)

The Lord Bishop of Sodor and Man (The Rt Rev. R M E Paterson),
Mr R P Braidwood, Mr D M W Butt, Mr D A Callister,
Mr E A Crowe, Mr A F Downie OBE, Mr E G Lowey, Mr J R Turner and Mr T P Wild,
with Mr J King, Clerk of the Council.

Business Transacted

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The Council adjourned at 11.30 a.m.

Legislative Council

The Council met at 10.30 a.m.

[MADAM PRESIDENT *in the Chair*]

The President: Moghrey mie, Hon. Members. Please be seated.
The Bishop will lead us in prayer.

PRAYERS

The Lord Bishop

Orders of the Day

Dogs (Amendment) Bill 2011 **Clauses considered**

5 1. Mr Turner to move.

The President: We move to consideration of the Dogs (Amendment) Bill clauses, and I call upon Mr Turner to move clause 1.

10 **Mr Turner:** Thank you, Madam President.
Clause 1: this clause will give the Act resulting from the Bill its short title.
I beg to move that clause 1 stand part of the Bill.

Mr Braidwood: I beg to second, Madam President, and reserve my remarks.

15 **The President:** The Hon. Member, Mr Downie.

20 **Mr Downie:** I would just like to ask the Hon. Member what consultation his Department had with the UK government, bearing in mind that it was announced last week that the whole of the legislation regarding dogs in the UK is being reviewed and that there will be a requirement for all dogs in the UK to be chipped. They are moving away completely from the sort of regime that we have in the Isle of Man.

25 Does he not think we would be better waiting until what was clear in the UK... so that we could apply the same measures here, because dogs come on and off the Isle of Man on a regular basis, dogs have passports now and dogs travel extensively throughout Europe? It would have been a good opportunity to put together a piece of legislation that interlocked with all our various neighbours and there would be a common understanding throughout the various jurisdictions.

The President: Mr Turner to reply.

30 **Mr Turner:** Thank you, Madam President.
I thank the Hon. Member for his questions.

35 Consultation with the UK: I am not aware the Department did any consultation with the UK as it is not really a matter... Whilst seeing the point about changes, the roots of this particular Bill go back a number of years. Unfortunately, with the Member being absent last week, I explained that this had come from an old DoLGE Bill which was wrapped up with other issues, such as housing.

When the Departments were split, the dogs element went to the Department of Environment, Food and Agriculture, and the housing went off to, I think, two other Departments – Infrastructure and also Social Care. Hence why this has come out of that. So there was not any direct consultation with the UK. There was substantial local consultation with various bodies.

40 I think this is moving some way towards bringing in, possibly, at some stage in the future, the compulsory chipping of animals, but we must remember that those animals that are being shipped around under the radar, so to speak, are outside the system, anyway. They are not the people who are getting dog licences now, they are not the people who are getting them chipped. It is like any practice that is going on outside the rules, the regulations and the laws: you have to actually go on intelligence and catch people importing and exporting.

45 Presumably, the Members is referring to, possibly, animals that are more dangerous, as opposed to the common family pet. Certainly, the vast majority of responsible owners would wish to have their animals chipped. Indeed, the RSPCA have come out in the last week in the UK and said they fully support the mandatory chipping of all dogs, and a lot of people have their cats chipped as well.

50 I think the aim of the Department is to make the system the least bureaucratic as possible. The Hon. Member may be aware that they are doing away with dog licences altogether – in fact they may have already done so in the UK – and the Department does not see the need. However, I think they are heading towards a situation where the preference would be that all dogs are microchipped.

55 So with that, Madam President, I beg to move that clause 1 stand part of the Bill.

The President: The motion is that clause 1 do stand part of the Bill.

Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 2.

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Mr Turner: Madam President, clause 2 provides that the Act will come into force on a particular day or days provided for in an Order.

65 The Appointed Day Order may contain provisions which are incidental, transitional or transitory, where appropriate, and that the Department must consult the Department of Infrastructure before making an Appointed Day Order.

I beg to move that clause 2 stand part of the Bill.

The President: Do we have a seconder?

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Mr Braidwood: I beg to second, Madam President, and reserve my remarks! (*Laughter*)

The President: The Hon. Member, Mr Lowey.

75 **Mr Lowey:** I do not wish to dwell too long on the subsequent... I think the principle is going to be accepted.

But when do dogs get chipped? Do they get chipped when they are born? I am trying to think of animals on a farm. You have to, within certain days, clip the ears and all the rest of it, for cows and what have you.

80 The point, I think, Mr Downie made, regarding the interflow of animals, I thought the main thing was to stop the spread of rabies and things – disease that way. Lots of dogs get imported into the Isle of Man – show dogs, in particular – most of them, I would suspect, are already chipped, however, and identifiable, but it is just a matter of interest: when would they be chipped? Would they be elderly when they were chipped? There would have to be a starting date, wouldn't there? I wonder about the practicalities of it. And if you are bringing in primary legislation, you should know when it is proposed to do certain things.

85

The President: Mr Turner to reply, please.

Mr Turner: Thank you, Madam President.

90

Much of the debate has surrounded microchipping. Of course, this is enabling legislation and this will allow the Department... and then there are other issues, which we will get to a bit later on in this, that allow them to make byelaws to prevent dog fouling or to enforce dog fouling. So I hope we are not going to get too hooked up on the microchipping issue.

95

What this legislation enables the Department to do is make an Order specifying exemptions. Microchipping is something they wish to do at a later date, because they are concentrating, first of all, on the exemptions which at the moment they are having to administer, such as police dogs.

Dogs under six months old are currently exempt from having a licence, and also guide dogs, for example, should be on the list of exemptions. Then, at a later date, the Department will be able to introduce exemptions –

100

A Member: Working dogs are, too.

Mr Turner: – for dogs that are microchipped.

105

It may be that, in bringing forward the exemptions, they would then seek to have more effective enforcement on dogs that maybe were not microchipped – in particular, strays etc. So that is where I think we are coming from.

110

Most owners who wished to have their animals microchipped would probably do so at the earliest stages possible because, if people are going to have a family pet, there is nothing worse for any family than when the pet goes missing. So there is a real benefit. This is not about them saving money on a dog licence, because you will probably find the vast majority of people have a licence and have their pet microchipped. It is interesting to note that the current dog warden already has the microchip reader. I think we had a question earlier on, in one of the earlier debates, about the cost of one of these readers. They are already in use and, of course, when a dog is found – because they do get out of gardens and go on their own adventures – the dog warden is able to ping the chip and find out that it belongs to Mr Lowey, for example, and return the animal back home, and that saves the kennelling and the feeding and all the costs that are associated with keeping the animal, whilst they put appeals out on the radio and everything for the owners to come forward.

115

So there is a real advantage. This is purely enabling and, as we see, the clause that we are currently looking at is the one that enables the Department to bring in the Orders, as and when appropriate, for certain provisions. I hope –

120

Mr Lowey: Could I ask one final question? I thank the Hon. Member for his reply so far. It says,

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‘an Order under subsection (1) may contain such incidental, transitional and transitory provisions as the Department considers appropriate.’

Will they be subject to Tynwald approval?

130

Mr Turner: I thank the Member for his comment. I understand that Orders under this Act will be subject to coming to Tynwald – I am not quite sure which ones are approval or laid before. I imagine the Appointed Day Orders are laid before, but Orders containing byelaws are usually approved.

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Mr Lowey: The principle that I am trying to get at is, that it is not just the Department will be able to write them and then introduce them without recourse to some sort of supervision. Like writing a blank cheque.

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Mr Turner: Yes, indeed, I am of the same mind as Mr Lowey that, I am not a fan of Departments being able to introduce legislation without it coming to the other place and I would certainly hope that is the case. Of course, with local authority byelaws, they are approved by Tynwald and they will also go through the Department of Infrastructure, so that there is that extra layer of scrutiny on those.

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I beg to move clause 2 stands part of the Bill.

The President: The motion before Council is that clause 2 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it. Clause 3.

150

Mr Turner: Thank you, Madam President.

Clause 3 simply introduces the amendments to be made to the Dogs Act 1990. I beg to move that clause 3 stands part of the Bill.

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Mr Braidwood: I beg to second, Madam President, and reserve my remarks.

The President: The motion is that clause 3 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

160 **Mr Turner:** Clause 4 inserts a new subsection 3A into section 1 of the Dogs Act 1990, which enables secondary legislation to contain an exemption from duty or the imposition of a reduced rate of duty in respect of a dog licence where a dog is microchipped.

I beg to move that clause 4 stands part of the Bill.

165 **Mr Braidwood:** I beg to second, Madam President, and following on from this, it has already been mentioned by the Hon. Member of Council, Mr Downie, that there is going to be – or the UK would hope to introduce – mandatory chipping of dogs.

One of the reasons as well, I think, that dogs are chipped – and the mover has explained, that some pedigree dogs are very valuable and the owners will have the dogs chipped. I think this is normally done as young as possible, of course, because you have to license a dog as soon as you own one, apart from when you are a breeder and you do not have to license a dog until it is six months' old, but you have to be the breeder of the animal. I do honestly believe that this would act, although there are dogs nowadays, pedigree dogs are very expensive, I still think it would be an incentive from the Department, that dogs are microchipped, that to exempt them from a licence fee would be an incentive for dog owners, as well, because it does cost £36 to microchip a dog and that includes the vet fee.

As the mover has already said, in some of the cases this is negligible compared to the cost of the dog, but it still would be an incentive for other people to microchip, because if the dog has not been spayed or neutered it costs £16 and they would then, near enough, receive the fee back, of which the vet has charged them, just over, in two years, so there is an incentive to exempt people from paying a licence if the dog is microchipped.

The President: The Hon. Member, Mr Callister.

185 **Mr Callister:** Thank you, Madam President.

On this amendment, it says it may provide an exemption from duty or prescribe a lower rate of duty – there is nothing positive about that. It is 'Shall we? Shan't we?' It looks as though they do not know what they want to do, anyway.

I just try and look at this from a dog's point of view! If we had a row of dogs sitting there now and had some human understanding, they would be laughing their heads off by now, with what is going on under this thing! It is just nonsense, really. Either the Department should have said, 'Yes, we will make it mandatory, you will have to chip your animal and there will be no more licences...' This is only some halfway measure that is going to make it more difficult for the Department to deal with, as far as I can see, than they have at the present time.

195 I am not going to say that I will vote against it. It is an enabling Bill and I realise that, but what it is going to enable in the future needs to be looked at, I think, fairly closely.

The President: The Hon. Member, Mr Downie.

200 **Mr Downie:** Thank you, Madam President.

Just for the benefit of, perhaps, some of my hon. colleagues, a dog is not a dog until it is six months old; it is a puppy up until then. Our legislation here grants an exemption for puppies until they are six months old. That is my understanding of the original Dogs Act.

205 There are certain animals that are already exempt: working dogs, police dogs, guide dogs, dogs that work on the farm that do not normally come into contact with other people. They have always been exempt from this system and I hope a way can be found to continue that, because some farmers will have had the same family of dogs – sheepdogs in particular – for generations. They are all part of what they do in the normal course of business.

210 What concerns me is if I have a dog today and I chip the dog today, and six months later I give it to Mr Callister and a year later, he gives it to somebody else, and two years down the line, that person gives it to somebody else, and it savages a child or it knocks somebody off their motorbike... At the end of the day, the whole reason for having legislation about dogs is so that at least once in the year, when the licence was renewed, you actually knew who owned that animal and who was responsible for it.

215 I would like to hear from the Hon. Member what the Department is seeking to put in place, if you finish up with a situation where there is no requirement for a person to have a dog licence, if the animal is microchipped. We need to be able to know who is responsible and, time after time after time, when there is dog fouling or there is another problem with a dog, or it bites somebody

220 or it is involved in an accident, we cannot pin down the person who is responsible for it. That was
the whole idea of bringing the legislation in in the first place.

225 If you deal with the other side of it, where somebody is being cruel to an animal and the animal
is suffering or starving or is being beaten, and then somebody turns round and says, 'Well, I don't
know who it belongs to – I think it belongs to this person or that person' – I think what is very
important is that we have a quite clear way of finding out who owns the animal and who is
responsible for it.

The President: The Hon. Member, Mr Wild.

230 **Mr Wild:** I was going to reflect or comment, the way I read this and understand it, the Bill is
meant to complement the existing licensing system and reward or have the possibility of
rewarding sensible owners who choose to actually chip their animals. You can take it to the
extreme and make the law that all animals need to be chipped but, as I understand then, technology
would have to be able to accommodate the point the Hon. Member makes, in terms of the transfer
235 of ownership to other individuals. At this stage, I do not think that technology exists and, if it did,
it would then incur further costs for animal owners, as you would have to put a new chip in for
each purchase or movement of the animal.

So, as I see it, this is just, as I said last time, a commonsense piece of legislation that supports
good dog ownership and practice.

240 **The President:** Lord Bishop.

The Lord Bishop: Madam President, I do not think there is a problem with the technology of
dog chipping. I think it was about 15 years ago I had the first dog that I ever had chipped, in order
245 to take it to the continent from the UK and it comes with a form that says, if you change your
address or if you change ownership, you should take it off... (*Interruption*)

Whether that is enshrined in legislation or not, I do not know, but that is all you have to do and
somebody changes a computer record.

250 **Mr Braidwood:** Like selling your car.

The Lord Bishop: It is like selling your car, yes.

The President: Mr Callister.

255 **Mr Callister:** Thank you, Madam President.

This question of ownership is interesting and it is a pity the AG is not with us, because the Act
itself says there is no such thing as owning a dog, it is simply keeping a dog. You are a keeper of a
dog. Ownership, to me refers to a legal situation, but is a keeper of a dog – is there any legal
260 aspect to that? I do not know the answer to that, but clearly the Act says that you are a keeper of a
dog not an owner of a dog and there is clearly a distinction there that maybe the mover can explain
to me, but I do not know.

The other thing is, of course, Mr Downie said, that if he had a dog chipped and he passed it on
to me, I would not accept it at all!

265 **The President:** The mover to reply, please.

Mr Turner: Thank you, Madam President.

270 First of all, to deal with the chip itself, it is, as the Lord Bishop says, a chip with a reference in
it. The details of the owner are not stored on that particular chip; that is stored on a central
database. I know when I had the cat chipped you got it chipped by the vet. The vet had all the
details down and you sent it off, or they sent it off. The Bishop is quite right: you get a form and if
you sell the animal on or give it away or re-home it, then you can update the database.

275 Mr Downie talks about responsible owners and what if there is an accident. There is no way of
telling that now with the dog-licensing system, because there are still people who have not got a
dog licence who let them roam the streets or go up the hills, savaging sheep and things. Nothing is
going to stop that, because those who do not conform to the law are not within this system
anyway. This is to make the system simplified for the vast majority who do. But we must point out
that this is an amendment Bill and the provisions in the parent Act will still prevail, and that gives
scope for enforcement and prosecution if people are caught with these animals that are unlicensed

280 or, as it is heading, unchipped. So there is still the power, in fact, to deal with all of that. This is not going to be dumbing down the powers at all. The Department will still have the services of the dog warden, who will carry on the duties. It will merely make that process a lot simpler and, who knows, we may get more people microchipping their pets as the publicity goes on.

285 I think, despite some of the queries... Mr Callister thinks it is a bit of a waste of time, the Department does not know what it wants. But again, this is enabling – this is enabling them to set the policies, watch what is happening elsewhere and be able to react in a reasonable timeframe to the needs of the Department, as opposed to having to constantly bring back primary legislation. It gives them the scope to do that.

290 So I hope Members will see the benefits of this and not be over-sceptical. Certainly, the RSPCA, as I said earlier, have come out and supported these initiatives in the UK.

So I beg to move clause 4 stand part of the Bill.

The President: The motion is that clause 4 do stand part of the Bill.

Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

295 Clause 5.

Mr Turner: Thank you, Madam President.

300 Clause 5 is substituting section 2 of the Dogs Act 1990, which currently lists the exemptions for the payment of duty for dogs. This change will, in future, enable the Department to specify exemptions by order. Initially, the intention is the Department will produce an Order specifying exemptions based on the current list in section 2 of the Act and then, at a later date, introduce exemptions for the dogs that are microchipped. Any Order would be the subject of consultation process and require Tynwald approval.

I move that clause 5 stand part of the Bill.

305

Mr Braidwood: I beg to second, Madam President, and reserve my remarks.

The President: If no Hon. Member wishes to speak, the motion before you is that clause 5 do stand part of the Bill.

310 Those in favour please say aye; against, no. The ayes have it. The ayes have it.

Clause 6.

315 **Mr Turner:** Clause 6 amends section 24 of the 1990 Act in several places and provides additional powers to local authorities when making byelaws under the Act. The changes to section 24 will provide for the inclusion of areas such as car parks and additional open spaces such as churchyards where dogs should be controlled.

320 The amendments made by this clause include the addition of definitions of a car park and open space. The definition of open space goes on to say that it does not include land vested in the Department, which are already subject to dog control provisions contained in the byelaws. I know this question came up last time and we stated that, of course, the byelaws are to do with the Forestry Act 1984 and they have sufficient powers relevant to dog fouling and the control of dogs. So again, that is why that is in there.

I beg to move that clause 6 stands part of the Bill.

325

Mr Braidwood: I beg to second, Madam President, and reserve my remarks.

The President: The Hon. Member, Mr Downie.

Mr Downie: Thank you, Madam President.

330 I wish to speak in support of this particular clause. I think there are places in the Isle of Man where people really need to be more responsible with their animals and even in places where byelaws currently exist. I had cause to visit the borough cemetery the other day and was absolutely appalled at the way people just allow their dogs to run through there and mess the churchyard and the footpaths and so on.

335 All I would say to the Hon. Member is that it is alright bringing these provisions in but, regrettably, some local authorities do not really seem to be employing people to enforce the existing byelaws. I think it would be a good exercise that, if this Bill is successful through the two branches, perhaps the Department should work with the local authorities to bring some of these matters much closer to the attention of the local authorities and try and get the message across to the public again.

340

345 Finally, one of the worst places for dog fouling is right at the rear of Government buildings here. It is absolutely appalling and I cannot believe that where the old environmental health department was, that is probably the worst place in Douglas for fouling by animals. Somebody within that building at some stage should be able to see what is going on and bring some of these people to book.

The President: Mr Callister.

350 **Mr Callister:** Thank you, Madam President.

I agree there with my colleague, Mr Downie, because there are certain areas that are particularly bad. I can think of, especially, the Oakwood, (**Mr Turner:** Yes.) which was a Millennium project and that has become, to a large extent, like a dogs' toilet. (**Mr Downie:** Yes.) I am afraid it is a disgraceful area. But none of these byelaws mean a thing unless there is enforcement. If you have not got the enforcement, things will continue.

355 What I think, though, is that Douglas generally, to me, walking round, seems to be a lot better than it was 15 or 20 years ago – 10 years ago, five years ago even. I think there is definitely an improvement on the pavements, to put it that way. But I think the Department will say probably, 'Well, we don't enforce the local authorities to enforce. It is a matter for them to deal with it.' However, the message should be getting through, I think, to them that if we are going to be serious about it, we need to get enforcers out on the streets.

The President: The Hon. Member, Mr Butt.

365 **Mr Butt:** Thank you, Madam President.

This clause obviously expands the areas where dogs need to be controlled into car parks, graveyards and redefines open spaces, but I think we have concentrated, to a certain extent, on dog fouling and I just want confirmation from the mover – I think I am correct, and it needs to be said for the record – this is not just about fouling; it is about the control of dogs. I believe that is right. It actually means that dogs in those areas have to be under the control of the keeper, not just a matter of dog fouling in those areas.

I would like confirmation of that from the mover.

The President: The Hon. Member, Mr Crowe.

375 **Mr Crowe:** Yes, I too support the improvement to the wider treatment of this so that sports and recreation and car parks are covered.

380 But there was a point made, which the mover did not elaborate on. It was this question of keeper and owner, and I think there is a rule in law that I might be the owner of the dog, but somebody else takes the dog out for a walk and a cyclist is knocked over by the... and there are injuries, and that keeper, that person walking the dog, is the responsible person in any case or insurance or whatever, in a court case, if they were sued for it. So I think the keeper and the owner are clear in law and clear definitions are there under the original Act, I am sure.

385 **The President:** Hon. Member, Mr Lowey.

Mr Lowey: I can only recite my support, especially for the extension to sport, primarily because of the medical conditions that it can imply, especially as someone who has a football field alongside where I live, and we have signs up saying, 'Please, no dogs'. It happens, I am afraid, it is an open space and people use it or they bring their dogs and let them use it. So I am glad that this is...

390 But, again, I have to stress to the mover, the enforcement. I see no enforcement, really. When was the last time you have really seen a case being reported in the press? They are very rare. Maybe I am reading the wrong columns in the paper, I do not know, but I am sure the mover will agree that if you have something, you then have to enforce it.

395 But on the general thing of extending it, I think there this unanimity here. We feel it is right that it should be and the responsibility should be fair and square on the owners.

The President: Mr Turner to reply.

400 **Mr Turner:** Thank you, Madam President.

A variety of queries here, but mainly that of enforcement. Enforcement is an ongoing debate we could have with regard to every piece of legislation that comes before us. One that always springs to mind, of course, is enforcement of speed limits. We can put them in, but can we enforce them? My colleague here mentioned mobile phones, which I know is one of his pet subjects.

405 Certainly in the area where I live, the local authority is regularly putting out in its newsletters about fouling and encouraging people to report people if they see people letting their dogs foul the parks and pavements. Many local authorities have invested heavily in dog bins which, of course, there is not just the cost of the bin, they have got the ongoing cost of having them emptied and
410 disposed. There is considerable resources going into the areas and, again, the enforcement officers cannot be everywhere. I suspect the majority of this practice is going on late at night, when people are just going out in the dark, letting the dogs roam around.

Maybe in the town we should be asking the Police to go out on foot instead of driving round in vans all night and have a wander around and have a look at some of these things. It might give the motorists a bit of a break, to actually catch people letting their dogs roam the streets. There have
415 been prosecutions. Mr Lowey mentioned about prosecutions: not many, because the system the dog warden operates and his processes are usually surrounding unlicensed dogs. They get a warning that they are supposed to have a dog licence and they are given the opportunity to purchase one there and then, which usually happens. The dog gets licensed and then they are in the system. So over time, of course, that would get people into the system. The information I have is
420 that there have only been five prosecutions since 2009 for offences under the Dogs Act, related mainly to failure to keeping a dog for which a licence is not in force. The vast majority purchase a licence that way.

During the same period, the dog warden seized over 1,200 stray dogs, 43 were placed with the MSPCA when the owners failed to reclaim the dogs following seizure. Again, these may be the
425 ones that Mr Downie referred to earlier. So, there have to be some benefits here. This is not a desire to get rid of enforcement at all; quite the opposite. This enables them to react and work with the local authorities. They are constrained by their budgets as well, and we would hope they would continue to enforce dog fouling because, particularly in areas where children are playing, it is a very nasty situation to have dog fouling.

430 I will feed back the point Mr Callister made about the Millennium Oakwood and see whether that is an area, maybe, where we could concentrate the warden. DEFA has a warden, of course, mainly policing the uplands, but maybe that is an area they could also take in, if they do not do so already.

435 Mr Butt asked about control of dogs. He is absolutely right. This also does bring in control, which is covered in the parent Act, because, as Mr Butt and Mr Crowe said, the owner or keeper... the keeper may be the person who is in charge of that dog at another time, for example, so there are issues that are covered in the parent act.

So I beg to move that clause 6 stand part of the Bill

440 **Mr Braidwood:** Madam President, just one query, if I may.

The mover has mentioned that there have been five prosecutions and those were for non compliance with having a dog licence. Has he any figures for people who have been prosecuted for dog fouling?

445 **Mr Turner:** Thank you, Madam President.

As I understand, the control of dog fouling is generally dealt with by the local authorities using their own staff, again the scrutiny of those byelaws goes through the Department of Infrastructure
450 Local Government Unit. I am not aware, but possibly they can issue fixed penalties for such. I am not too sure of that, and that is something really that would come from a different Department, so I do not have those details but obviously would still encourage the public –

Mr Braidwood: It is a thousand-pound fine.

455 **Mr Turner:** – to report people if they find them dog fouling – people allowing their dogs to foul.

I beg to move clause 6.

The President: The motion is that clause 6 do stand part of the Bill.

460 Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clause 7.

Mr Turner: Clause 7 amends paragraph 5 of schedule 1 to the 1990 Act to allow the Department to specify the colour of a dog licence without the need to go through secondary legislation.

465 I beg to move clause 7 stand part of the Bill.

Mr Braidwood: I beg to second, Madam President, and reserve my remarks.

470 **The President:** The motion is that clause 7 do stand part of the Bill.
Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clause 8.

Mr Turner: Clause 8 makes minor amendments to clarify where the responsibilities lie with either the Department of Environment, Food and Agriculture or the Department of Infrastructure.

475 I explained, in earlier readings that, of course, this was originally part of the former Department of Local Government and the Environment and, since the reorganisation of Government, functions have been split to the different Departments.

I beg to move that clause 8 stand part of the Bill.

480 **Mr Braidwood:** I beg to second.

The President: The motion before Council is that clause 8 do stand part of the Bill.
Those in favour, please say aye; against no. The ayes have it. The ayes have it.

Dogs (Amendment) Bill 2011
Standing Order 4.3(2) suspended to take Third Reading

485 **The President:** I understand Mr Turner seeks to suspend Standing Orders.

Mr Turner: Thank you, Madam President.

I would like to seek approval from Hon. Members for the suspension of Standing Orders, to enable the Third Reading to take place now.

490 I beg to move:

That Standing Order 4.3(2) be suspended to the extent necessary to take the Third Reading of this Bill at this sitting.

495 **Mr Braidwood:** I beg to second.

The President: Those in favour, please say aye; against, no. Suspension agreed.

Dogs (Amendment) Bill 2011
Third Reading approved

The President: Would you like to proceed to Third Reading?

Mr Turner: Thank you, Madam President.

500 I thank Hon. Members for giving this Bill, although a short Bill, close scrutiny as to, certainly, the principles behind it and no doubt the Department will be taking note of the points that have been brought up. I know they have been reviewing the earlier Readings and will be taking on board many of the points that have been brought up, certainly with regard to enforcement, and we will make sure that those points are relayed out to the local authorities, when making their byelaws.

505 The Bill makes amendments to the Dogs Act, as well as introducing some new provisions. It simplifies the procedure for the granting of exemptions from the need for a dog licence. The main objective will enable the Department to specify those exemptions by Order, instead of them being laid down in primary legislation which, as Hon. Members know, is a more lengthy process. This will allow the Department to firstly make an Order specifying those exemptions, based on the

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current list of exemptions, such as dogs under six months old, dogs used by blind persons and police dogs and then, at a later date, the Department will be able to introduce exemptions for dogs that were microchipped. As I have stated, any Order would be subject to initial consultation and require Tynwald approval.

515 As we have just dealt with, it provides that the colour of tokens for dog licences shall be specified through regulations, rather than a very long-winded way to actually have a full Bill to deal with it, for the colour of the token.

520 The further amendment relates to dog fouling and extends the provisions of fouling of land by dogs to car parks, cemeteries and churchyards, and although some of those places would appear to be public places to most people, they are not, indeed, legally defined, and, as such, this brings in those areas to the classification of public places. It will enable local authorities to include those places in any new byelaws they choose to make and enforce, and I think that is the important thing: that this is giving those authorities the ability to make and enforce those byelaws.

525 The Bill was the subject of extensive consultation, as originally part of the Local Government and Housing Bill in 2009. The restructuring of Government in April 2010 meant that the remit for this particular issue was transferred to the Department of Environment, Food and Agriculture, and therefore the dogs element was separated out.

530 Madam President, I thank Hon. Members for their support and hope they will support this, the Third Reading of the Bill, and I beg to move.

Mr Braidwood: I beg to second, Madam President, and reserve my remarks.

The President: The Hon. Member, Mr Downie.

535 **Mr Downie:** Thank you, Madam President.

I think what the Hon. Member, in moving the Bill, has done thus far is show us that, by dealing with it in this particular way, it has created some more flexibility for the Department to be able to update, review and change where necessary.

540 I was concerned, in his opening remarks, that they had not consulted with the UK. I am normally someone who is fiercely guarded of our own legislation in the Isle of Man, but having worked extensively in the Department of Agriculture, Fisheries and Forestry and having had the privilege of being the Minister there for a number of years, I know that all animal health issues are normally dealt with extensively, and we try, where possible, to have some synergy with the UK and with the EU, and I think this is more important than ever now when we are talking about

545 issues regarding dogs and the bigger picture.

We have people who go away off this Island week after week to kennel clubs; breeders associations; we have people who attend animal welfare groups. All the veterinary practices do not use Isle of Man legislation *per se*. What they will be looking at – and all their databases and microchips and so on – is what is happening either in the UK or within Europe. We can have our

550 own independence but, at the end of the day, I think if we are going to bring legislation in to provide a proper legislative framework for dogs and how they travel, how they are kept in future and how they are identified and so on, I think it is important that we do have something that is compatible.

555 As my hon. colleague, Mr Braidwood, said early on, the UK are having everything microchipped. That is going to be what they do and I am pleased to say that people who perhaps do not have a lot of disposable income, the animal welfare groups are providing chipping sessions, where they can take their pets along and they can either have them chipped at no charge at all or at a very minimal charge, in conjunction with the various local veterinary practices.

560 You would be amazed, if you contacted somebody from the Steam Packet, to ask how many dogs actually travel to and from the Isle of Man. I would say there are several thousand in the course of a year. It is a very popular thing to do, to bring a dog across and, of course, it is important for them to be able to operate in this environment. If there was an issue where a dog was identified with a disease, or attacked a passenger on the boat, they need to be able to understand that there is someone there who can deal with the matter and not have a complicated issue to try

565 and resolve or to follow up.

So it is another case where it is important that we have legislation which works throughout the various jurisdictions that the Isle of Man has access to. I think the Hon. Member will take that back to his Department.

570 It may not be an important issue to some Hon. Members, I know – dogs – but at the end of the day, they tend to become members of one's family. People will often say that the dog gets fed first and everybody has to wait. I think what is more important is that we do this properly so that, in

years to come, we are not going back and revisiting this all the time. We have something that works, something that is clearly understood by people who own dogs, and it lays out the responsibility that is afforded to them, to keep within the law.

575 Thank you.

The President: The Hon. Member, Mr Crowe.

Mr Crowe: Thank you, Madam President.

580 Yes, I support the Bill. It will make things easier to administrate and simpler to administrate and will bring some of the primary legislation into the secondary legislation arena, and I think, as a general rule, I like to see primary legislation being enabling legislation because it is quicker to move secondary legislation than primary. I think when you think that the other place takes four weeks, or four sittings, to move a Bill and up to three sittings in here, it is a lengthy process, so
585 primary legislation should be to the very important legislation, which is almost set in stone, shall we say, whereas the secondary can be changed rather quicker in Tynwald. So again, I support the Bill.

The President: Hon. Member, Mr Wild.

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Mr Wild: I support the Bill and reiterate my comments that it seems to be a practical updating of existing legislation. There is just one question, really, for clarification and interest. Is it the intention that the licence fee, even if there is an exemption or reduction to allow for chipping, will still cover the cost of actually maintaining the management and control of dogs on the Island?

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The President: The Hon. Member, Mr Butt.

Mr Butt: Thank you, Madam President.

I would just like to say, I will support the Third Reading of this Bill.

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I just make a couple of comments about enforcement. Many people have said, where is the enforcement in this Bill. I think if you look back 20 or 30 years, to a time when Douglas, in particular, was full of loose dogs on the streets, there was dog fouling everywhere and very little control. There was enforcement that went on. I think any legislation that you bring in... I have been in the Department of Agriculture, when we have looked at fishing distances at sea, etc and
605 we bring the legislation in and people say, 'how can we enforce that?'

The fact that it is there is often enough to make people who are responsible owners, or responsible people, to actually not break the law. The same with speeding: you cannot have a speed camera in every area, but when people know there is a speed limit, responsible people tend to conform to the limits. Responsible dog owners will comply with the Dogs Act and the rules and byelaws under that.

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It has also become, I think, very socially unacceptable now to let your dog foul on the pavement. You often see people walking around with plastic bags, these days, picking the excrement up – it has become the norm to do that. Twenty or thirty years ago, that did not happen and I think the fact that there is not much enforcement – and there probably is not that much – the fact that the law is there, and we will have the powers to prosecute, should be enough for most responsible dog owners. You will not actually stop the irresponsible, feckless keepers and owners of dogs from doing what they do, anyway, but this will reinforce the fact that these things should not happen.

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The President: Hon. Member, Mr Lowey.

Mr Lowey: Very briefly, I will be supporting the Bill.

Let us be honest, the Bill actually says it on the third line of the Explanatory Memorandum:

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'makes minor amendments to the Dogs Act 1990, either clarifying the effect of that Act or effecting deregulatory changes.'

So it does not promise a lot. I do not think it will achieve a lot. The two main problems that I see with dogs at the moment are the fouling and the dangerous dogs and diseases, a bit. Most people would have thought if you are dealing with the problem, deal with the problem and not the periphery. We have gone to the periphery and not dealt really with the problem, but the Bill deserves support, it is the Bill that is before us. It should be supported, yes we should. I do not

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think it will make an awful lot of difference, but I hope I am proven wrong over time. I will be supporting the Bill.

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The President: The Hon. Member, Mr Callister.

Mr Callister: Thank you, Madam President.

Yes, I will support the Bill, for what it is worth.

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I was trying to remember who actually moved the Dogs Act in 1990. I cannot remember that. I suspect they have long gone by now.

Mr Braidwood: It wasn't me.

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Mr Downie: Gone to the dogs!

Mr Callister: I think the people who were involved in formulating this Bill originally, which happened in the 1980s, will probably be smiling a bit now because they think, 'Well, we still haven't sorted out the dogs problem,' and this is not necessarily going to sort it out, either, but I will support it, Madam President.

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The President: The mover to reply, please.

Mr Turner: Thank you, Madam President, and I thank Members for their support and contributions.

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Mr Downie talked about flexibility. He is absolutely right. He did raise concern about the lack of consultation with the UK and whereas dogs coming to and from the UK... of course, the microchip is on a database, which is accessible by both areas. Certainly when I had the cat chipped, it was a UK organisation that administers all of that, so that I think is the link in the future that, if we encourage the microchip and, at some stage, it becomes compulsory then, of course, that will assist in the liaison between the two areas. However, the bulk of this is designed for our local issues, such as our open spaces and our local enforcement, so, again, I think that, even without that apparent UK-Isle of Man consultation, this will enable further things to happen at a later date using Orders, if the Department deems necessary.

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I thank Mr Crowe, as well, for his support. Mr Wild mentioned covering the costs. It is not covering the costs now, because the Department is legislating for whether 10 people have dogs on the Island, or 80,000 people own dogs. The system, unfortunately, is such that you have to have the procedures in place and there is the cost of operating the dog warden service.

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It is tendered out every three years. There is a current term there and, of course, when that is up, they will have to continue with that service, so no, it is not going to cover the cost. The amount of money which the Department was receiving was very low, anyway. So, unfortunately, it is not going to cover the costs at all. However, what may happen in the future, if we can encourage microchipping, is the cost of providing the dog warden service may well be reduced, because there will be fewer animals having to be kennelled and fed and... who knows? In worst case scenarios, they may require veterinary care or whatever. If they are microchipped, they will be able to return them back to their owners as soon as possible.

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The Hon. Member, Mr Butt, again talks of enforcement. You will never be able to legislate for the irresponsible owners. It is just the opportune moment of catching those people and taking those through the system but, as he said, this may well assist the responsible owners, who look after their animals in a responsible manner. *(Interjection)*

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Mr Lowey was very sceptical at earlier Readings. I am glad he is going to support the Bill. He says it does not do a lot, but I think if it gives local authorities that scope to at least enable them, some of the more proactive local authorities, he may well see less dog fouling in areas, in his own area.

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So I thank Members for their support. I thank Mr Braidwood for seconding throughout the procedure.

I beg to move.

The President: The motion before Council is that the Bill do pass.

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Those in favour, please say aye; against, no. The ayes have it. The ayes have it. That concludes the business on our agenda this morning.

**Winding up procedure
Statement by the President**

695 **The President:** If I could just make a comment, Hon. Members. There is a slightly creeping tendency to come back after the mover has wound up! In Council we are fairly relaxed in the clauses and do move into committee, so I would invite you all to make all your questions and queries before the winding up please.

Now, Council will adjourn to the sitting of Tynwald Court on 21st February. Unless we have any Questions tabled, I am advised that the Gambling Duty Bill is not being moved in another place today and so we would have the First Reading of the Gambling Duty Bill on 13th March.

Thank you, Hon. Members.

The Council adjourned at 11.30 a.m.