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Food & Rural Affairs

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Our ref: RFI 7304  
27 March 2015

Dear [REDACTED]

**REQUEST FOR INFORMATION: THE DANGEROUS DOGS (EXEMPTION SCHEMES)  
(ENGLAND AND WALES) ORDER 2015 - SI 2015 No 138**

Thank you for your request for information, which we received on 20 February 2015, about the above Order. We have handled your request under the Freedom of Information Act 2000 (FOIA). I apologize for the delay in replying to you.

The response to each part of your request is below (I have repeated text from each part of your request for ease of reference):

**Q1) What checks were made on the instrument to ensure it was made in accordance with the powers granted to the Minister making it?**

A1) The instrument was checked by four lawyers, all employed by the Treasury Solicitor's Department; the drafting lawyer and three other lawyers performing a checking function. The instrument was sent to the Joint Committee on Statutory Instruments which scrutinises secondary legislation and will draw legislation to the attention of the House if (among other reasons) it considers the instrument is not in accordance with the power being exercised. In the case of SI 2015/138 the instrument passed scrutiny without being drawn to the attention of the House, and the report of the Committee showing this is publicly available at the following link:

<http://www.publications.parliament.uk/pa/jt201415/jtselect/jtstatin/138/138.pdf>. You will find reference to SI 2015/138 at page 9 under the title "Instruments Not Reported". This confirms that the Committee was satisfied that the instrument was in accordance with the power being exercised.

**Q2) What Government consultation took place regarding the amendments made to the Dangerous Dogs Act 1991 by the Statutory Instrument prior to it being drafted and laid?**

A2) As this related to public safety, we consulted the police, as enforcers of the legislation. The intention of Government to prescribe the circumstances when transfer of keepership of an exempted prohibited dog is permitted was made clear in the response to the Efra Committee pre-legislative scrutiny report of the Dangerous dogs (Amendment) Bill published on 9 September 2013. The restriction on the transfer of keepership of prohibited dogs to cases of death or incapacity was also included in the Dangerous Dogs Fact Sheet for the public that accompanied the Anti-social Behaviour, Crime and Policing Bill during its passage through Parliament.



**Q3) Who was consulted or asked to give evidence or opinion regarding the changes made by the Statutory Instrument and when did any discussion or consultation take place? Are the minutes of any meetings held in connection with the Statutory Instrument available for the public to view?**

A3) The changes made to the Exemptions Scheme in relation to the restrictions on change of keepership were made in response to a court judgement made in the case of Sandhu (2012). The Sandhu judgment was seen as allowing keepership of prohibited dogs to be transferred to anyone else by the owner with no supervision by the courts. Such a position was not envisaged by Parliament in 1997 when agreeing in certain cases to allow for the dog to be kept under strict conditions. The Order was made to clarify the intention of the law.

**Q4) On what evidence did the government base its decision to introduce the changes to the Dangerous Dogs Act 1991 empowered by the Statutory Instrument?**

A4) It is an offence under section 1 of the 1991 Act to sell, exchange or gift a prohibited dog. The legislation previously did not make any provision for the transfer of exempted dogs and transfers have been carried out on an ad hoc basis without any court approval of the person to whom the dog was transferred. The 2015 Order permits the transfer of exempted dogs in limited cases where otherwise those dogs would have had been destroyed. It also requires court approval of the person proposed to take charge of the dog thus reflecting the amendments made to the 1991 Act with the introduction of the “fit and proper person” test. It balances the public protection aspects of the prohibition on the transfer of prohibited type dogs in the 1991 Act with the recognition that in unavoidable cases there may be a need to transfer an exempted prohibited type dog to another suitable person.

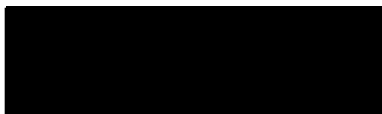
Information disclosed in response to this FOIA request is releasable to the public. In keeping with the spirit and effect of the FOIA and the government’s Transparency Agenda, this letter and the information disclosed to you may be placed on [GOV.UK](https://www.gov.uk), together with any related information that will provide a key to its wider context. No information identifying you will be placed on the GOV.UK website.

I attach Annex A, which explains the copyright that applies to the information being released to you.

I also attach Annex B giving contact details should you be unhappy with the service you have received.

If you have any queries about this letter please contact me.

Yours sincerely,



  
**Defra FOIA and EIRs Team**  
**Area 4C, Nobel House, 17 Smith Square, London, SW1P 3JR**  
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## Annex A

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## Annex B

### Complaints

If you are unhappy with the service you have received in relation to your request you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 18 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to [REDACTED] Head of Information Standards, Area 4D, Nobel House, 17 Smith Square, London, SW1P 3JR (email: [requestforinfo@defra.gsi.gov.uk](mailto:requestforinfo@defra.gsi.gov.uk)) and he will arrange for an internal review of your case. Details of Defra's complaints procedure are on our [website](#).

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted Defra's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF