To: The Chief Officer of Police (England and Wales)  
The Chief Clerk of the Crown Court  
The Clerk to the Justices  
The Chief Crown Prosecutor  

cc: The Clerk to the Police Authority  
The Clerk to the Magistrates' Courts Committee  
The Circuit Administrator  
The Courts Administrator  

15 August 1991

Dear Sir or Madam


2. Attached to this circular at Annex A are notes on sections of the Act. Annex B is a brief summary of the provisions of the Act as it relates to fighting dogs: this has already been sent out with the notification form which the owners of specially controlled dogs are required to collect from local police stations. The Act applies to England, Scotland and Wales. Section 8, which relates to Northern Ireland, is already in force. This circular is issued with the agreement of ACPO. A similar circular will be issued for police forces in Scotland.

3. The Act deals with three district aspects of dangerous Dogs: section 1 deals with fighting dogs; section 2 contains reserve powers to impose muzzling and leashing conditions on other dogs which are considered to be specially dangerous, but no order has been made under this section; and section 3 deals with dogs which are dangerous, out of control, either in a public place or in any other place where they are not permitted to be.
SECTION 1: DOGS OF A TYPE BRED FOR FIGHTING

Specially controlled dogs

4. From 12 August 1991, section 1 of the Act applies special controls to
   (i) the pit bull terrier,
   (ii) the Japanese tosa:
and, as the result of SI 1991/1743,
   (iii) the Dogo Argentino; and
   (iv) the Fila Brasiliiero.

5. There are powers under section 1(1)(c) for other types of fighting dogs to be
   added to this list. In practice, this is more likely to occur in order to support an import
   ban on new types of fighting dog which are currently abroad, rather than on additional
   types of dog already in this country. Cross-breeds of the pit bull terrier with other dogs
   are not specially controlled by section 1 of the Act.

Offences under section 1

6. Section 1(2) imposes a number of prohibitions on the owners of specially
   controlled dogs: they cannot breed from them; sell or exchange them; or give them away.
The dogs must be muzzled and on a lead in a public place; under 7(1)(a), the muzzle
   must be sufficient to prevent the dog biting any person; and, as the result of section
   7(1)(b), the dogs must be held by a person who is not less than 16 years old. Specially
   controlled dogs cannot be abandoned or allowed to stray.

7. As the result of section 1(7), these offences attract a fine of level 5 or a term of
   imprisonment of up to six months or both, (although imprisonment does not apply to
   those who simply took part in publishing advertisements, or did so unknowingly). The
dog must be destroyed and anyone convicted of an offence can also be disqualified from
keeping a dog in future.

Prohibition on keeping a specially controlled dogs after 30 November 1991

8. Section 1(3) states that after an appointed day, which has been sent by SI
   1991/1742 to be 30 November 1991, it will be an offence to have a specially controlled
   dogs unless it is being held as the result of seizure or destruction. An exception to this is
   given by section 1(5) which allows the Home Secretary to set up exemption scheme, as
   has been done under SI 1991/1744.

Compensation scheme

9. The combined effect of the Act and the statutory instruments is that, provided a
dog is destroyed by a veterinary practitioner after 12 August and before 30 November
   1991, the owner may claim £25 towards the cost of destruction and a further sum in
   compensation for the dog, which is £25 in the case of pit bull terrier and £100 in the
   case of other type of specially controlled dogs.
Exemption scheme

10. The combined effect of the Act and the orders is to set up an exemption scheme whereby, provided certain conditions are met, the owners of specially controlled dogs can continue to keep these dogs after 30 November 1991. These conditions, which are set out in part III of SI 1991/1744, are that the police have been notified; that the dog has been neutered or spayed and permanently identified (see paragraph 18); that there is in force acceptable third party insurance cover; that a fee has been paid, that a certificate of exemption has been issued; and that the requirements applying to the certificate are complied with.

Puppies

11. It is not good veterinary practice to neuter or spay puppies until they are six months old. In the case of dogs which will be less than six months old on 30 November 1991, a notification form must be completed before the date and a certificate of exemption will not be issued until they have reached the age of six months, when they must be neutered or spayed, permanently identified and insured within a month. This means that there may be a small number of young unexempted dogs until the spring of 1992. It is a relatively easy matter for a veterinary surgeon to determine whether a dog is older than about six months from its teeth, so this exception for puppies should not give rise to significant difficulties in enforcement.

Import and export of specially controlled types of dogs

12. Under separate orders, the Government has banned the import of all specially controlled types of dogs. Section 1(4) of the Act does, however, make provision for the export of these dogs until 30 November 1991 as an alternative to having them destroyed or fulfilling the conditions required for a certificate if exemption.

The Index of Exempted Dogs

13. Under section 1(6) an agency may be appointed to operate the exemption and compensation schemes and this agency is the Index of Exempted Dogs, Chishill Road, Heydon, Royston, Herts SG8 8PN. The fax number is 0763 838318 and the normal public inquiry telephone number is 0763 838329. A reserved number has been provided for inquiries by the police and local authority dog wardens and this is given at paragraph 23 of this circular.

Notification form

14. All owners of pit bull terriers and other specially controlled dogs are required by article 6 of SI 1991/1744 to collect a notification form from their local police station between 12 August and 12 October 1991. Newspaper advertisements have advised owners of this requirement and all local police stations should have copies of the notification form. If stocks run out, the form may be photocopied. One form, consisting of two parts should be completed for each dog.
15. Part 1 of the notification form is for police use. It is designed so that local stations can have information readily available about the location of any specially controlled dogs in their immediate locality. This may be of most value during the transition stage up to 30 November 1991.

16. Part I and Part II of the notification form are almost identical and have been printed so that they can be completed using carbon paper. Owners are not obliged to complete Part I of the form at the police station, but it should be pointed out to them that Part I has to be returned there. The easiest procedure would, therefore, be for owners to complete Part I at the station and send off Part II to the Index of Exempted Dogs soon afterwards. Part II of the notification form starts the process both for compensation and the obtaining of a certificate of exemption. As soon as that part has been received by the Index of Exempted Dogs, the owner will receive information about both the compensation and exemption schemes.

Requirements of certificate of exemption

17. Certificates of exemption remain valid for the life of the dog, provided that the requirements attached to them are observed. These requirements are:

(i) that the dog is kept in secure condition at home so that it cannot escape:

(ii) that the dog is kept in secure condition when in a public place, i.e. it must be muzzled and held on a lead by someone who is at least 16,

(iii) if asked to do so by a police or local authority officer (dog warden), the keeper of the dog must show the certificate of exemption, display the dog’s tattoo and allow the implanted transponder to be read;

(iv) that the third party insurance is kept in force, and

(v) that the Index of Exempted Dogs is informed of any change of address at which the dog is kept for longer than 30 days.

Permanent numbering of specially controlled dogs: tattoos and transponders

18. Each exempted dog will be marked by a tattoo on the inside of the thigh. It is a requirement that the tattoo letters should be at least 10mm tall, so that they can be easily read. The tattoo will consist of seven characters: the capital letter E, followed by four or five numbers, and a further capital letter A, B, or C. The capital letter E indicated that the dog is exempt and signifies the right way to read the tattoo. The numbers are the dog’s reference number on the Index of Exempted Dogs.

19. The final letter indicated which of the three approved permanently-implanted transponders has been put into the dog. The letter A indicates the AVID tag, B indicates an Identichip, and C indicates a Torvan chip. The transponders, which are all shorter than 15mm, are implanted in the scruff of the neck and are read by passing a device round the neck of the dog. When the reading device comes within about 100-130mm (4-5 inches) of the transponder, a ten character reference, which may be a mixture of letters and numbers, will appear on the digital display of the reader. This uniquely identifies the dog.
Enforcement of section 1: use of tattoos

20. In the normal course of events, the tattoo will be the usual way of ascertaining whether a dog is exempted. As it is a requirement of the certificate of exemption that the keeper of the dog must display the dog’s tattoo on request, a police officer or dog warden can ask for this to be done and needs simply note the numbers and make inquiries of the Index of Exempted Dogs, as set out in paragraph 23.

Use of transponders

21. In normal circumstances, police officers will not have immediate access to a transponder reader, although they are becoming much more common and there should be no difficulty in getting a transponder read within about 24 or 48 hours. These readers are held variously by local authorities, veterinary surgeons, dog kennels and RSPCA inspectors. The real advantage of the transponder is the quality of the evidence it provides in identifying the dog since, although there are circumstances in which tattoos can become unreadable, transponders remain readable for much longer than the life of the dog. It is our expectation that, whilst tattoos will be used for routine checking of pit bull terriers, transponders (or the absence for them) will be central to any court proceeding, alongside evidence that these dogs will probably not have been castrated or spayed.

22. The purpose of tattoos and transponders is to simplify the enforcement of section 1(2). For instance, once a dog has been tattooed or had a transponder implanted, the owner or keeper of the dog cannot easily claim that it is not a pit bull terrier and therefore need not be muzzled or on a lead in a public place. Equally, an exempted pit bull terrier which has been picked up as a stray can be easily identified by its tattoo and transponder and put down under the provisions of section 5(4). The transponder evidence alone may well be sufficient to secure a conviction under section 1(2)(e) against the keeper of the dog. By the same token, dogs which are exchanged, sold or given away can readily be traced through the tattoo and transponder.

24-hours-a-day contact with Index of Exempted Dogs

23. In addition to the fax and telephone number given in paragraph 13, the Index of Exempted Dogs can be contacted by the police and local authorities on . This telephone number is ex-directory and is not open to the general public. It provides a 24-hours-a-day, 365-days-a-year inquiry service and details of the dogs, the keeper of the dog and the address at which the dog is kept and whether the insurance remains in force should be immediately available. The Index can provide information about an exempted dog on the basis of the tattoo or transponder reference, or any name or address.

24. To ensure that the caller is entitled to receive the information which will be provided, the Index of Exempted Dogs may ask for the name, address and telephone number of the caller and, possibly, his identifying number (eg PC1234). In some instances, the Index may decide to ring back the caller to verify that they are telephoning from the number given.
Notification to the Police by the Agency

25. The Index of Exempted Dogs will supply information to police forces about any dogs whose owners appear to have infringed the requirements of the Act. This means principally those cases where notification of ownership of a specially controlled dog has been given, but no certificate of exemption or compensation has been obtained; and where, following reminders from the Index of Exempted Dogs, no evidence has been provided that the insurance policy for the dog has been renewed. In both these cases, the police force for the area will be informed by the Index within a relatively short time so that appropriate action can be taken. To assist the Index in the distribution of this information it would be helpful if each force could provide one contact name, address and telephone number. The Index should be advised of this point of contact direct, through the fax and telephone numbers given in paragraph 13 or the telephone number in paragraph 23.

26. Routine statistical data about the specially controlled dogs in police force areas will be provided by the Index of Exempted Dogs to the Home Office and we will supply it on request.

Identification of types of specially controlled dogs

27. The pit bull terrier is the most common of the four types of controlled dog. It is currently estimated that there are about 10,000 in the UK and a detailed description of the type was sent to Chief Officers on 26 July. The posters sent to all force headquarters on 2 August give a further indication of the typical size and range of colouring of pit bull terriers. However, it is recognised that identification of pit bull terriers is not straightforward and it may be most easily confused with the Staffordshire bull terrier, which is smaller.

28. The evidence that a dog is not a specially controlled type of dog might be a certificate from a veterinary surgeon to that effect; pedigree papers from, for instance, the Kennel Club; or evidence from the breeder from whom the dog was originally obtained and who may be able to provide further information about its pedigree.

29. The difficulty in identifying pit bull terriers is recognised by section 5(5) of the Act which reverses the burden of proof so that, instead of the prosecution having to show that the dog is a pit bull terrier, the accused has to show that his dog is not a pit bull terrier. This means that if someone seeks to claim, for instance, that they have a cross-breed of a pit bull terrier which is nevertheless very similar to a normal pit bull terrier, they must be advised that it is up to them to prove that the dog is not actually a pit bull terrier.

30. The identification of the Dogo Argentino, Fila Braziliero and Japanese tosa is a specialist task. It is believed that there are less than half a dozen of these dogs in the country and, now that their import has been banned, there should be no others. Police forces which believe that they may have one of these types of dog in their area should, therefore, contact the Home Office and we will help to obtain specialist advice.
Specially controlled dogs which are not covered by a Certificate of Exemption

31. Difficulties of identification are likely to arise particularly in the case of a dog which is thought to be a pit bull terrier, but which is not exempted and does not therefore have a tattoo or a transponder. It will be an offence under section 1(3) to have such a dog after 30 November 1991 and if the dog were to appear in public without a muzzle or a lead, a further offence would be committed under section 1(2)(d).

32. In such a case, the person in charge of the dog may well seek to claim that his dog is not a pit bull terrier. In dealing with such a claim, officers will be aware of the power of arrest contained in section 25 of the Police and Criminal Evidence Act 1984; that having an unexempted specially controlled dog is an offence; and that there are powers under section 5(1)(a)(i) to seize the dog. This is most likely to be necessary if the officer has reason to believe that the person in charge of the dog might dispose of it illegally. In many circumstances, it may be the best course to take the person’s name and address so that further inquires can be made.

SECTION 3: NEW CONTROLS APPLYING TO ALL DOGS

Dogs dangerously out of control

33. The new offences under section 3 of the Act of a dog being dangerously out of control in a public place (section 3(1)) or in a place where the dog is not permitted to be (section 3(3)) to a large extent supersede the more restricted provisions in the Town Police Clauses Act 1847.

34. The offence in section 3(1) is absolute and a aggravated offence is caused if the dog has injured someone. The phrasing of this section, and others, is such as to exclude circumstances when the dog causes injury, but does not actually injure directly, like when a dog runs out in front of a bicycle and the rider is hurt.

35. The offence in section 3(3) is similar to the offence in section 3(1), except that it is not absolute and the owner of the dog or the person for the time in charge of it should, in some sense, have allowed it to enter the police where the dog was not permitted to be. This may include negligence.

36. “Dangerously out of control” is defined in section 10(3). A dog is regarded as dangerously out of control on any occasion when there are grounds for reasonable apprehension that it would injure any person, whether or not it actually does so. The same section provides an exemption for dogs being used by the police and the Crown.

37. The penalties for offences under section 3 are given in section 3(4). Where injury has not been caused there is a maximum fine of level 5 and six months’ imprisonment; when an aggravated offence has been committed, the fine is unlimited and the sentence of imprisonment is increased to a maximum if two years. The dog may be destroyed and anyone convicted of an offence can also be disqualified from keeping a dog in future.
Public place

38. Section 10 (2) defines a public place as meaning any street, road or other place to which the public have, or are permitted to have access. This is a wide definition of a public place which covers some areas, like privately-owned shopping precincts, that have not hitherto been covered in similar legislation. It also covers places which are temporarily open to the public, for instance, a fete or fair.

39. This section specifically includes the common parts of a building containing two or more separate dwelling. This is intended to cover those parts of, for instance, a block of flats where, although there may be a secure front entry door, so that the interior of the flat is not a place to which the public has unrestricted access, nevertheless the common parts are, in all other respects, a public place.

Owners and people in charge of dogs

40. Throughout the Act, reference is made both to the owner of a dog as well as the person for the time being in charge of it and, when an offence has been committed, either or both can be charged, depending on the circumstances. The intention is that people should not be able to escape responsibility for the dog on the basis that they did not own it, or when they were clearly the person for the time being in charge of it.

41. In order to make it more difficult for people to escape responsibility as owners of specially controlled dogs, Part I of the notification form which has to be deposited at police stations, and Part II which has to be sent to the Index of Exempted Dogs, where it will be kept, requires the applicant to name, first, the keeper of the dog, second, the address at which the dog is normally kept if different, and third, the owner of the dog if different from the keeper. In this way it is hoped that, in the event of any court proceedings, it will have already been established who was the owner and who was the keeper of the dog.

Young persons under 16

42. By virtue of section 6 of the Act, where a dog is owned by a person under 16, the head of the household, if any, is included also as the owner. This means that, for instance, parents who give a child a dog remain legally liable as its owner until the child has reached the age of 16.

43. As noted in paragraph 6 above, in the case of specially controlled dogs which have to be kept on a lead in a public place, section 7(1)(b) requires also that the lead must be held by a person who is not less than 16 years old.

Seizure of dogs

44. Section 5 of the Act deals with the seizure of dogs and entry on to premises. Section 5(1)(a)(i) allows the seizure after 30 November 1991, of any unexempted dog in a public place. An unexempted dog is a specially controlled dog for which no certificate of exemption has been obtained or one for which the requirements of the certificate of exemption have been breached. In the latter case the dog may be seized because such a breach causes the certificate of exemption to lapse automatically. This means that, for instance, a pit bull terrier without a lead or muzzle which is in a public place can be seized as it will be in breach of its certificate of exemption and therefore no longer
exempted. After 30 November 1991, specially controlled dogs can continue to be held legally by the police or any agency appointed by them under provisions of section 1(3)(a) or (b).

45. Section 5(1)(a)(ii) gives a power of seizure before 30 November 1991, when no certificate of exemption may be in force, where a specially controlled dog is in a public place without a lead or muzzle.

46. Section 5(1)(c) enables any dog which is dangerously out of control in a public place to be seized. As stated in paragraph 36 above, the dog does not need to have injured anyone. There need only be grounds for reasonable apprehension that it will injure someone. In the case of a specially controlled dog in a public place without a lead or a muzzle in breach of section 1(2)(d), this will almost invariably be the case and provide additional grounds on which to seize the dog. Section 5(2) enables police officers to apply for a warrant to enter private property to seize a dog or anything else which provides evidence that an offence under the Act is being, or has been, committed.

47. Section 5(4) sets out how seized dogs can be destroyed. Where no prosecution is to be brought, a Justice of the Peace may order the destruction. It is to be noted that the power is given to the Justice of the Peace, rather than to a court.

Changes to the Dogs Act 1871

48. Section 3(5) seeks to clarify the application of the Dogs Act 1871. Broadly, section 3 of the 1991 Act is for the control of the owners of dogs or those who are in charge of them. By contrast, the Dogs Act 1871 can be seen as being principally for the control of the dogs themselves and ceases to have effect as soon as the dog has been destroyed.

49. The strength of the Dogs Act 1871 is that, as it is not criminal law, it operates on a lower standard of proof and proceedings can be taken even when a criminal offence has not been committed. It therefore provides a remedy in a wide range of circumstances for the putting down, or imposition of controls on, dangerous dogs. A particular advantage of the 1871 Act is the fact that it applies everywhere, even in and around a private house, which is why it is especially appropriate for action on behalf of people like postmen and women who are regularly at risk from dogs in front gardens.

50. Section 3(5)(b) of the Act enables the court to make an order under the Dogs Act 1871 that a dog is in future muzzled, kept on a lead, tethered or excluded from specified place like, for instance, a school playground or particular recreation field. This is a flexible provision which can be used to deal with a number of nuisance complaints about dogs, including circumstances where dogs in one back garden cause fear or risk of injury to neighbours in another. Section 3(6) enables male dogs to be neutered, in addition to, or instead of, other control measures.
Contact points

51. Chief Officers are reminded that paragraph 25 invites each force to provide the Index of Exempted Dogs with a contact point to which the Index can report.

52. Any inquiries about this circular can be addressed to E Division, Animal Welfare Section, Room 979, Home Office, 50 Queen Anne’s Gate, London SW1H 9AT, telephone 071-273-2316 or 3804, fax 071-273 2423.

HUGH MARRIAGE
E Division
Section 1

(1) This section applies to –

(a) any dog of the type known as a the pit bull terrier:

(b) any dog of the type known as the Japanese Tosa, and

(c) any dog of type designated for the purposes of this section by an Order of the Secretary of State, being a type appearing to him to be bred for fighting or to have the characteristics of a type bred for that purpose.

This subsection sets out the type of dog to which restrictions will apply. “Type” rather than “breed” is used as the dogs specified in (a) and (b) are not recognised breeds in the United Kingdom. (c) enables dogs of different types or descriptions to be added by Order. The Dogo Argentino and Fila Brazilierio were added by S.I. 1991/1743 which came into force on 12 August 1991.

In the United Kingdom, the pit bull terrier is regarded as a cross-breed of a terrier with a larger dog, commonly a mastiff. The Tosa is a dog similar in size to the Great Dane and is bred in Japan for fighting.

(2) No person shall -

(a) breed, or breed from, a dog to which this section applies;

(b) sell or exchange such a dog or offer, advertise or expose such a dog for sale or exchange;

(c) make or offer to make a gift of such a dog or advertise or expose such a dog as a gift;

(d) allow such a dog of which he is the owner or of which he is for time being in charge to be in a public place without being muzzled and kept on a lead; or

(e) abandon such a dog of which he is the owner or, being the owner or for the time being in charge of such a dog, allow it to stray.

This subsection lists the restrictions which apply to the dog specified in or under subsection 1(1). (a) prohibits breeding from a specified dog or breeding to obtain one, for instance by crossing a bull terrier with a mastiff to obtain a pit bull terrier. (b) prohibits the sale or advertisement for sale of such a dog. (c) prohibits the giving away of such a dog. (d) requires that these dogs are muzzled and kept on a lead as defined in section 7 when in a public place, as defined in subsection 10(2). (e) prohibits the abandoning or letting loose of such a dog.
(3) After such day as the Secretary of State may be Order appoint for the purposes of this subsection no person shall have any dog to which this section applies in his possession or custody except -

(a) in pursuance of the power of seizure conferred by the subsequent provisions of this Act; or

(b) in accordance with an order for its destruction made under those provisions;

but the Secretary of State shall by Order make a scheme for the payment to the owners of such dogs who arrange for them to be destroyed, before that day of sums specified in or determined under the scheme in respect of those dogs and the cost of their destruction.

This subsection enables the Secretary of State to specify the day after which it becomes an offence to possess a fighting dog (so allowing a period of grace) except (a) if the dog has been seized, for instance by the police or a dog warden, or (b) while it is being held for destruction. The day for the pit bull terrier, Japanese tosa, Dogo Argentino and Fila Braziliero is set by S.I. 1991/1742 for 30 November 1991. The subsection also requires the Secretary of State to make a scheme for compensation and to reimburse the costs of destruction, where dogs are destroyed before the specified date.

(4) Subsection (2)(b) and (c) above shall not make unlawful anything done with a view to the dog in question being removed from the United Kingdom before the day appointed under subsection (3) above.

This subsection enables fighting dogs to be sold or given away in order to be exported before the date on which these dogs become prohibited under subsection 1(3) (ie 30 November 1991).

(5) The Secretary of State may by Order provide that the prohibition in subsection (3) above shall not apply in such cases and subject to compliance with such conditions as are specified in the Order and any such provision may take the form of a scheme of exemption containing such arrangements (including provision for the payment of charges or fees) as he thinks appropriate.

This subsection gives the Secretary of State power to provide for a scheme to exempt certain dogs and therefore allow them to be possessed after the date specified in subsection 1(3) subject to certain conditions being observed. Exempted dogs will, nevertheless, be subject to the restrictions set out in subsection 1(2). Provision is made for a change to be made for exempting a dog.
(6) A scheme under subsection (3) and (5) above may provide for specified functions under the scheme to be discharged by such persons or bodies as the Secretary of State thinks appropriate.

This subsection allows the Secretary of State to appoint an agency to operate the compensation and exemption schemes on his behalf. Heybush Enterprises Ltd, the Trading Company of Wood Green Animals Shelters, is to administer the scheme.

(7) Any person who contravenes this section is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both except that a person who publishes an advertisement in contravention of subsection (2)(b) or (c) -

(a) shall not on being convicted be liable to imprisonment if he shows that he published the advertisement to the order of someone else and did not himself devise it; and

(b) shall not be convicted if, in addition, he shows that he did not know and had no reasonable cause to suspect that it related to a dog to which this section applies.

This subsection creates an offence of contravening the section with penalties of six months’ imprisonment or a fine not exceeding level 5 (currently £2,000; £5,000 after the Criminal Justice Bill comes into force) or both. In the case of advertising by a publisher, imprisonment does not apply and the publisher of the advertisement can avoid conviction if he can show that he did not know and had no reasonable cause to suspect that the advertisement related to a fighting dog.

(8) An order under subsection (1)(c) above adding dogs of any type to those to which this section applies may provide that subsections (3) and (4) above shall apply in relation to those dogs with the substitution for the day appointed under subsection (3) of a later day specified in the Order.

This subsection provides that if a new type of dog is added by Order, the date on which it would become an offence to possess such a dog can also be specified. Without this provision it would become an offence to possess such a dog immediately the Order under subsection (1)(c) was made.

(9) The power to make Orders under this section shall be exercisable by statutory instrument which, in the case of an Order under subsection (1) or (4) or an Order containing a scheme under subsection (3), shall be subject to annulment in pursuance of a resolution of either House of Parliament.

This subsection provides that all the Orders in section 1 of the Act are to be made by negative resolution statutory instrument.

Section 2

(1) If it appears to the Secretary of State that dogs of any type to which section 1 above does not apply present a serious danger to the public he may by Order impose in relation to dogs of that type restrictions and prohibitions corresponding, with such modifications, if any, as he thinks appropriate, to all or any of those in subsection 2(d) and (e) of that section.
This subsection gives the Secretary of State reserve powers to impose restrictions relating to muzzling, leashing and abandoning any non-fighting type of dog if it is considered to present a serious danger to the public.

(2) An Order under this section may provide for exceptions from any restriction imposed by the Order in such cases and subject to compliance with such conditions as are specified in the Order.

This subsection enables the Order which applies the muzzling, leashing and abandoning requirements to specified types to provide for exceptions.

(3) An Order under this section may contain such supplementary or transitional provisions as the Secretary of State thinks necessary or expedient and may create offences punishable on summary conviction with imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both.

This subsection enables the Orders to incorporate supplementary and transitional provisions (the requirement might be phased in) and to create offences corresponding to those in subsections 1(2)(d) and (e).

(4) In determining whether to make an Order under this section and, if so, what the provision of this Order should be the Secretary of State shall consult with such persons or bodies as appear to him to have relevant knowledge and experience, including a body concerned with animal welfare, a body concerned with veterinary science and practice and a body concerned with breeds of dogs.

This subsection requires the Secretary of State before making an Order to apply restrictions to non-fighting types of dog, to consult at least one body concerned with animal welfare, one veterinary body and one concerned with dog breeds. (In practice the bodies consulted are likely to include the RSPCA, the British Veterinary Association, the Royal College of Veterinary Surgeons and The Kennel Club.)

(5) The power to make an Order under this section shall be exercisable by statutory instrument, and no such Order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

This subsection provides that Orders under Section 2 are to be made by the affirmative resolution procedure.

Section 3

(1) If a dog is dangerously out of control in a public place -

(a) the owner, and

(b) if different, the person for the time being in charge of the dog,

is guilty of an offence, or, if the dog while so out of control injures any person, an aggravated offence, under this subsection.

This subsection creates an offence applying to any dog which is dangerously out of control in a public area. “Dangerously out of control” is defined in section 10(3). “Public place” is also defined in section 10(2).
The offence in section 3(1) applies to both the owner and the person who was in charge of the dog at the
time. If, as a consequence of the dog being out of control, the dog injures any person, an aggravated offence
is committed. The offence is intended to catch the dog which bites a person but would not catch the dog
which, for example, knocks a cyclist off his bicycle thereby contributing to an injury.

(2) In proceedings for an offence under subsection (1) above against a person who is
the owner of a dog but was not at the material time in charge of it, it shall be a defence
for the accused to prove that the dog was at the material time in the charge of a person
whom he had reasonable grounds to believe was a fit and proper person to be in charge
of it.

This subsection provides for the owner of a dog who was not actually in charge of it at the time when it
was dangerously out of control, to have a defence that he had reasonable grounds to believe that the person
who was in charge of the dog was a fit and proper person. This might mean that, for instance, the owner
could use this defence when the dog was in the charge of an adult, but not when the dog was in the charge
of a young child in the absence of an adult.

(3) If the owner or if different the person for the time being in charge of a dog
allows it to enter a place which is not a public place but where it is not permitted to be
and while it is there -
(a) it injures any person, or
(b) there are grounds for reasonable apprehension that it will do so

he is guilty of an offence or if the dog injures any person an aggravated offence under this subsection.

This subsection provides that a criminal offence is committed if an owner allows his dog to enter private property where it is not permitted to be and it then injures someone or there are grounds for reasonable apprehension that it will do so. The result is that the offence will apply on occasions where a dog is let into a school playground or a neighbour’s back garden and then injures someone.

(4) A person guilty of an offence under subsection (1) or (3) above other than an aggravated offence is liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both, and a person guilty of an aggravated offence under either of those subsections is liable -

(a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale or both,
(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

This subsection provides that the penalties for an offence when the dog is dangerously out of control but has not injured are a term of imprisonment not exceeding six months, or a level 5 fine, or both. For an aggravated offence, i.e. when the dog has injured, the penalties are increased on conviction on indictment, to imprisonment for a term for up to two years or an unlimited fine.

(5) It is hereby declared for the avoidance of doubt than an Order under section 2 of the Dogs Act 1871 (Order on complaint that a dog is dangerous and not kept under proper control) -

(a) may be made whether or not the dog is shown to have injured any person; and
(b) may specify the measures to be taken for keeping the dog under proper control, whether by muzzling, keeping on a lead, excluding from specified places or otherwise.

The Dogs Act 1871 (strengthened by the Dangerous Dogs Act 1989) is non-criminal legislation which enables action to be taken against dogs even in situations where no offence has been committed or can be established. The Act is not confined to a public place, so enables controls to be exercised over, for instance, dogs which attack postmen or behave in such a way as to frighten neighbours in their gardens.
(a) enables an Order under section 2 of the Dogs Act 1871 (for a dog to be kept under proper control or to be destroyed) to be made whether or not a dog has previously caused injury. This ensures that there is no “first bite” rule for Orders made under the Dog Act 1871.

(b) clarifies the powers of the court to make Orders under the Dogs Act 1871. At the moment the court can only order that the dog be kept under proper control but this subsection enables the court to specify how this control might be exercised, for instance by requiring a dog to be muzzled or kept on a lead, or excluded from specific places like school playgrounds.

(6) If it appears to a court on a complaint under section 2 of the said Act of 1871 that the dog to which the complaint relates is a male and would be less dangerous if neutered the court may, under that section, make an Order requiring it to be neutered.

This subsection enables a court which makes an Order under section 2 of the Dogs Act 1871 to require that a male dog is neutered. The subsection only applies to male dogs since spaying a bitch is not a way of rendering it less dangerous.

(7) The reference in section 1(3) of the Dangerous Dogs Act 1989 c.30 (penalties) to failing to comply with an Order under section 2 of the said Act of 1871 to keep a dog under proper control shall include a reference of failing to comply with any other Order made under that section, but no Order shall be made under that section by virtue of subsection (6) above where the matters complained of arose before the coming into force of that subsection.

This subsection provides that the courts cannot make an Order under section 2 of the Dogs Act 1871 to require that a dog is neutered if the matters complained of arose before 12 August 1991 when this section of the Act comes into force.

Section 4

(1) Where a person is convicted of an offence under section 1 or 3(1) or (3) above or of an offence under an Order made under section 2 above the court -

(a) may order the destruction of any dog in respect of which the offence was committed and shall do so in the case of an offence under section 1 or an aggravated offence under section 3(1) or 3(3) above; and

(b) may order the offender to be disqualified, for such period as the court thinks fit, for having custody of a dog.
This subsection provides that when an offence is committed with a specially controlled dog or with a dog which is dangerously out of control, the court can order the destruction of the dog and may order the offender to be disqualified from having further custody of a dog, for long as it likes.

In the case of an aggravated offence under section 3(1) or (3), or where a fighting dog is involved, the court is required under (a) to order that the dog is put down.

(2) Where a court makes an Order under subsection (1)(a) above for the destruction of a dog owned by a person other than the offender, then, unless the Order is one that the court is required to make, the owner may appeal to the Crown Court against the Order.

In some cases a destruction Order will be made on the conviction of a person other than the owner of a dog. This subsection enables the owner of the dog to appeal to the Crown Court against the destruction of his dog.

(3) A dog shall not be destroyed pursuant to an Order under subsection (1)(a) above-

(a) until the end of the period for giving notice of appeal against this conviction, where the order was not one which the court was required to make, against the order, and

(b) if notice of appeal is given within the period, until the appeal is determined or withdrawn,

until the offender and, in a case to which subsection (2) above applies, the owner of the dog give notice to the court that made the Order that there is to be no such appeal.

This subsection provides that a dog is not destroyed until any appeal has been heard. An appeal against destruction can be made by the offender or the owner of the dog if that is someone different.

(4) Where a court make an Order under subsection (1)(a) above it may -

(a) appoint a person to undertake the destruction of the dog and require any person having custody of it to deliver it up for that purpose; and

(b) order the offender to pay such sum as the court may determine to be the reasonable expenses of destroying the dog and of keeping it pending its destruction.
This subsection enables a court to require that a dog is handed over for destruction by whoever has custody of the dog (which might not be either the offender or the owner) and gives the court power to reclaim the costs of the destruction of the dog from the offender. Costs for detaining the dog, for instance during the time when an appeal is being heard, can also be reclaimed from the offender.

(5) Any sum ordered to be paid under subsection (4)(b) above shall be treated for the purposes of enforcement as if it were a fine imposed on conviction.

This subsection provides that the court can recover the costs of destruction and/or detention of a dog as if they were a fine.

(6) Any person who is disqualified for having custody of a dog by virtue of an Order under subsection (1)(b) above may, at any time after the end of the period of one year beginning with the date of the Order, apply to the court that made it (or a magistrates’ court acting for the same petty sessions area as that court) for a direction terminating the disqualification.

This subsection allows someone who has been disqualified from having custody of a dog to apply after a year to have the disqualification lifted. It mirrors similar provisions in the Dangerous Dogs Act 1989. The subsection is necessary because the court is empowered to disqualify for any period that it considers fit.

(7) On an application under subsection (6) above the court may -

(a) having regard to the applicant’s character, his conduct since the disqualification was imposed and any other circumstances of the case, grant or refuse the application; and

(b) order the applicant to pay all or any part of the costs of the application;

and where an application in respect of an Order is refused no further application in respect of that Order shall be entertained if made before the end of the period of one year beginning with the date of the refusal.

(a) specifies the basis on which the court may lift the disqualification and (b) gives powers to require the applicant to pay the cost of the application. The subsection further provides that, in the event of an application being unsuccessful, the applicant must wait a year before reapplying.
Any person who—

(a) has custody of a dog in contravention of an Order under subsection (1)(b) above; or

(b) fails to comply with a requirement imposed on him under subsection (4)(a) above;

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

This subsection makes it an offence to have a dog whilst disqualified or to fail to hand over a dog for destruction. The penalty is a fine not exceeding level 5. The offence at (a) applies to any dog, not just specially controlled dogs.

In the application of this section in Scotland—

(a) in subsection (2) for the words “Crown Court against the Order” there shall be substituted the words “High Court of Justiciary against the Order within the period of seven days beginning with the date of the Order”;

(b) for subsection (3)(a) there shall be substituted—

“(a) until the end of the period of seven days beginning with the date of the Order”;

(c) for subsection (5) there shall be substituted—

(5) section 411 of the Criminal Procedures (Scotland) Act 1975 shall apply in relation to the recovery of sums ordered to be paid under subsection (4)(b) above as it applies to fines ordered to be recovered by civil diligence in pursuance of part II of that Act; and

(c) in subsection (6) the words “(or a magistrates’ court acting for the same petty sessions areas as that court)” shall be omitted.

This subsection is necessary for the operation of the Act in Scotland. The Dogs Act 1871 and the Dangerous Dogs Act 1989 also apply to Scotland.

Section 5

A constable or an officer of a local authority authorised by it to exercise the powers conferred by this subsection may seize—

(a) any dog which appears to him to be a dog to which section 1 above applies and which is in a public place—

(i) after the time when possession or custody of it has become unlawful by virtue of that section; or

(ii) before the time, without being muzzled and kept on a lead;
(b) any dog in a public place which appears to him to be a dog to which an Order under section 2 above applies and in respect of which an offence against the Order has been or is being committed; and

(c) any dog in a public place (whether or not one to which that section applies) which appears to him to be dangerously out of control.

This subsection gives a constable or local authority dog warden power to seize a dog which appears to be dangerously out of control in a public place; a dog which is the subject of an Order under section 2 which has been abandoned or is not on a lead before 30 November 1991; a fighting dog which has no muzzle and/or is not being kept on a lead; or a fighting dog which does not satisfy all the conditions for exemption set out in the exemption scheme after possession becomes an offence on 30 November 1991.

(2) If a justice of the peace is satisfied by information on oath, or in Scotland a justice of the peace or Sheriff is satisfied by evidence on oath, that there are reasonable grounds for believing -

(a) that an offence under any provision of this Act or of an Order under section 2 above is being or has been committed; and

(b) that evidence of the commission of any such offence is to be found,

on any premises he may issue a warrant authorising a constable to enter those premises (using such force as is reasonably necessary) and to search and seize any dog or other thing found there which is evidence of the commission of such an offence.

This subsection gives powers to magistrates, following evidence that an offence under the Act has been or is being committed, to issue a warrant authorising the police to enter the premises using force if necessary, to search them and to seize any dog or any other evidence of the offence.

(3) A warrant issued under this section in Scotland shall be authority for opening lockfast places and may authorise persons named in the warrant to accompany a constable who is executing it.

This subsection provides the necessary authority to enter closed premises in Scotland.
(4) Where a dog is seized under subsection (1) or (2) above and it appears to a justice of the peace, or in Scotland a justice of the peace or sheriff, that no person has been or is to be prosecuted for an offence under this Act or an Order under section 2 above in respect of that dog (whether because the owner cannot be found or for any other reason) he may order the destruction of the dog and shall do so if it is one to which section 1 above applies.

This subsection gives powers for a dog which has been seized to be destroyed when no prosecution is being brought under the Act, including when the owner of the dog cannot be traced.

(5) If in any proceedings it is alleged by the prosecution that a dog is one to which section 1 or an Order under section 2 above applies it shall be presumed that it is such a dog unless the contrary is shown by the accused by such evidence as the court considers sufficient; and the accused shall not be permitted to adduce such evidence unless he has given the prosecution notice of his intention to do so not later than the fourteenth day before that on which the evidence is to be adduced.

This subsection reverses the burden of proof so that, instead of the prosecution having to establish that a dog is of a type that is specially controlled, the owner has to show that it is not of such a type. When the defendant wishes to use this defence, he has to give 14 days notice, in much the same way as notice has to be given when seeking to establish an alibi. This period will enable the prosecution to consider whether it wishes to produce expert evidence of its own about the type of dog.

Section 6

Where a dog is owned by a person who is less than sixteen years old any reference to its owner in section 1(2)(d) or (e) or 3 above shall include a reference to the head of the household, if any, of which that person is a member or, in Scotland, to the person who has his actual care and control.

This section provides that where someone under sixteen owns a dog the head of the household is also included as the owner. It prevents an adult from escaping responsibility for a dog to which section 1 applies or one which is dangerously out of control by claiming that the dog was owned by a minor.

Section 7

(1) In this Act -

(a) references to a dog being muzzled are to its being securely fitted with a muzzle sufficient to prevent it biting any person, and

(b) references to its being kept on a lead are to its being securely held on a lead by a person who is not less than sixteen years old.
(2) If the Secretary of State thinks it desirable to do so he may by Order prescribe the kind of muzzle or lead to be used for the purpose of complying in the case of a dog of any type with section 1 or an Order under section 2 above; and if a muzzle or lead of a particular kind is for the time being prescribed in relation to any type of dog the references in subsection (1) above to a muzzle or lead shall, in relation to any dog of that type, be construed as references to a muzzle or lead of that kind.

(3) The power to make an Order under subsection (2) above shall be exercised by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

This section does three things. First, subsection (1)(a) defines the type of muzzle that dogs to which section 1 or an Order under section 2 applies must wear. Second, subsection (1)(b) provides that section 1 and section 2 dogs must be under the control of a person of 16 or over. Third, subsection (2) contains an order-making power to enable the Home Secretary to prescribe types of lead or muzzle for section 1 or section 2 dogs.

Section 8

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 (legislation for Northern Ireland for the interim period) which states that it is made only for purposes corresponding to the purpose of the Act:

(a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); and

(b) shall be subject to annulment in pursuance of a resolution of either House.

This section enables the Act's provisions to be applied to Northern Ireland by negative resolution Order in Council. The usual procedure for Northern Ireland is affirmative order.

Section 9

Any expenses incurred by the Secretary of State in consequence of this Act shall be paid out of money provided by Parliament.

This section provides for the cost any compensation scheme and other costs incurred by the Secretary of State as a result of this Act to be defrayed out of money provided by Parliament.
Section 10

(1) This Act may be cited as the Dangerous Dogs Act 1991.

(2) In this Act -

“advertisement” includes any means of bringing a matter to the attention of the public and “advertise” shall be construed accordingly;

“public place” means any street, road or other place (whether or not enclosed) to which the public have or are permitted to have access whether for payment or otherwise and includes the common parts of a building containing two or more separate dwellings.

(3) For the purposes of this Act a dog shall be regarded as dangerously out of control on any occasion on which there are grounds for reasonable apprehension that it will injure any person, whether or not it actually does so but references to a dog injuring a person or there being grounds for reasonable apprehension that it will do so do not include references to any case in which the dog is being used for a lawful purpose by a constable or a person in the service of the Crown.

Subsections (2) and (3) set out the definition of specific terms as they apply to this Act. It is to be noted that “public place” extends to privately-owned land because it includes all places to which the public have access, including the communal areas of block of flats even when they are secure-entry controlled. This definition of public place is much wider than the “street, unfenced ground adjoining or abutting upon any street, or any place of public resort or recreation ground under the control of the local authority” which applies (in England and Wales) to the offence of having an unmuzzled ferocious dog at large under the Town Police Clauses Act 1847. Subsection (3) provides an exemption in respect of dogs used by policemen or people in the service of the Crown from the dangerously out of control offences in section 3(1) and (3) of the Act.

(4) Except for section 8 this Act shall not come into force until such day as the Secretary of State may appoint by an Order made by statutory instrument and different days may be appointed for different provisions or different purposes.

By virtue of S.I. 1991/1742, the Act comes into force on 12 August 1991 (section 8 came into force on Royal Assent).

(4) Except for section 8 this Act does not extend to Northern Ireland.

It should be noted that this Act does not repeal any part of the Dogs Act 1871, the Dangerous Dogs Act 1989, nor the offence of having an unmuzzled ferocious dog at large in section 28 of the Town Police Clauses Act 1847 (and similar provisions, in London, in the Metropolitan Police Act 1839 and the City of London Police Act 1839).

In Scotland, the offence in section 49(1) of the Civic Government (Scotland) Act 1982 of allowing a creature to endanger or injure any person in a public place, or to give that person reasonable cause for alarm also remains in place.

12 August 1991
ANNEX B

INFORMATION ABOUT SPECIALLY CONTROLLED DOGS

Please read and keep in a safe place

Which dogs are specially controlled by the Dangerous Dogs Act 1991?

The Act controls the four types of dogs known as:

(i) the Pit Bull Terrier;
(ii) the Japanese Tosa;
(iii) the Dogo Argentino
(iv) the Fila Braziliero.

No other types of dog are specially controlled by the Act.

If you have a pit bull terrier, tosa, dogo or fila, you must action about it at once.

If I have one of these dogs what do I have to do?

From 12 August 1991, whenever you dog is in a public place, it must be:

(i) muzzled so that it cannot bite anyone; and
(ii) on a lead; and
(iii) in the charge of someone who is at least 16 years old.

Failure to do any of these things is a criminal offence, for which the maximum penalty is a fine of £2,000 or six months’ imprisonment or both and the dog will be put down.

From 12 August 1991 it will also be a criminal offence to:

(i) breed from your dog;
(ii) sell or exchange the dog or to offer or advertise your dog for sale or exchange;
(iii) give away your dog, or offer to do so, or advertise your dog as a gift;
(iv) abandon your dog; or
(v) allow it to stray.

From 30 November 1991 it will be a criminal offence to keep your dog unless it has a Certificate of Exemption.

The maximum penalty for these offences is a fine of £2,000 or six months’ imprisonment or both and your dog will be put down.
Is there anything else I have to do?

Yes, you must make a decision soon between:

(i) having the dog humanly killed by a veterinary surgeon: if this is done before 30 November 1991, you can obtain compensation from the Government, or

(ii) obtaining a Certificate of Exemption so that you can keep your dog.

In either case, you must:

(i) leave part I of this form at your local police station; and

(ii) send part II of this form to the Index of Exempted Dogs, Chishill Road, Haydon, Royston, Herts SG8 8PN.

You will be sent an application form.

If I choose to have the dog put down, how much compensation can I get?

£25 for a pit bull terrier and £100 for a tosa, dogo or fila: and up to £25 for the veterinary surgeon’s fees. The application form will tell you how to apply for compensation.

What do I have to be able to keep the dog?

You must get a Certificate of Exemption for each dog. To qualify for this, your dog must be:

(i) neutered or spayed; and

(ii) tattooed with the special number which will be given on the application form; and

(iii) permanently identified with an approved implanted chip (if your dog does not already have one); and

(iv) covered by third party insurance to insure against your dog causing the death of, or bodily injury to, any person.

You must send the completed application form and fee of £12.50 plus VAT to the Index of Exempted Dogs, Chishill Road, Heydon, Royston, Herts SG8 8PN before 30 November 1991.

You do not need to send any money now.

If you have more than one pit bull terrier, tosa, dogo or fila, you must get a Certificate of Exemption for each dog.
Are there any requirements attached to the Certificate of Exemption?

Yes, when the dog is in a public place, it must always be muzzled and on a lead held by someone who is at least of 16.

You must also:

(i) keep the dog in secure conditions so that it cannot escape:

(ii) if asked to do so by a police or local authority officer (dog warden), show the Certificate of Exemption, display the dog’s tattoo and allow the implanted chip to be read;

(iii) keep the third party insurance in force,

(iv) inform the Index of Exempted dogs of any change of address at which the dog is kept for longer than 30 days.

If these requirements are not observed, the Certificate of Exemption will lapse and the dog will have to be put down.

Are there any special arrangements for puppies?

Yes, they do not have to be neutered or spayed until they are six months old. The application form will give more details about this.

What should I do now?

If you have a pit bull terrier, tosa, dogo, or fila, fill in this form at once. Leave part I at your local police station and send part II to the Index of Exempted Dogs, Chishill Road, Heydon, Royston, Herts SG8 8PN.

If you have an adult dog, you must do this before 12 October.

In the case of puppies which will be less than six months old on 30 November, you must do this by 30 November.

DON’T DELAY!

YOU MUST RETURN PART 1 OF THIS FORM TO THE POLICE BY 12 OCTOBER AT THE LATEST AND SEND PART II TO THE INDEX OF EXEMPTED DOGS SO THAT YOU CAN GET AN APPLICATION FORM AND WILL HAVE TIME TO OBTAIN THE CERTIFICATE OF EXEMPTION BY 30 NOVEMBER 1991. If you do not receive a reply from the Index of Exempted Dogs within 21 days, you should write again or telephone 0763 838329.