



SHETLAND ISLAND COUNCIL INFRASTRUCTURE SERVICES

A DOG OWNER'S GUIDE TO THE DOG FOULING (SCOTLAND) ACT 2003

The Dog Fouling (Scotland) Act 2003 introduced by Keith Harding as a Member's Bill and supported by the Scottish Executive completed its parliamentary stages on 13 March 2003 and came into force on the 22 October 2003.

Why change the existing dog fouling legislation?

There was unanimous agreement in the Parliament that the existing offence of allowing a dog to foul in certain places has not been particularly effective in tackling the problem. There had also been problems regarding enforcement of this offence as a result of uncertainty as to those places where an offence occurs and difficulties in obtaining corroboration to enable court proceedings to take place.

How the law has changed?

Emphasis will now be in place on dog owners who fail to clear up after a dog has fouled and will apply to **all public places**. This will allow the police and local authorities to tackle dog fouling more effectively. Both police and local authority officers will have the option of issuing fixed penalty fines without the need for corroboration.

What if I am issued with a fixed penalty?

If you always remember to clear up after your dog has fouled then this should never happen. However, if you are issued with a fixed penalty you will be required to pay £40 to the local authority in whose area the offence occurred. The fixed penalty notice will detail how to make the payment. After 28 days, unless a hearing has been requested or the police or local authority agrees to withdraw the fixed penalty after considering any representations made, the penalty will increase to £60.

If you think you were wrongly issued with a fixed penalty you can appeal by submitting a request for a hearing to the local authority. Thereafter, unless the local authority or the police are prepared to withdraw the fixed penalty, the papers will be passed to the Procurator fiscal for consideration. This may result in a hearing taking place in court.

Are there any exceptions?

The Act contains a number of exceptions, including for blind people who are in charge of a guide dog, for people with certain physical disabilities who are in charge of an assistance dog trained to assist them with that disability and for certain working dogs. The Act also states that it is not an offence to fail to clear up after a dog in a public place if you have a reasonable excuse, for example it would endanger your own safety. It will be for an officer at the scene to determine what constitutes a reasonable excuse. If the officer disagrees and decides to issue a fixed penalty it would be open to you to request a hearing with a view to challenging its merits through the courts.

**This guidance is issued from National Dog Warden
Association (Scottish Area) and Scottish Local Authorities**

For further information contact Environmental Health: 01595 745250