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Explanatory Memorandum](#)

**AN BILLE UM BUNACHAIS PÓRÚCHÁIN MADRAÍ 2009
DOG BREEDING ESTABLISHMENTS BILL 2009**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, collective citation and commencement.
2. Definitions.
3. Regulations.
4. Expenses.
5. Service of documents.
6. Offences.
7. Fixed payment notice.

PART 2

REGULATION OF DOG BREEDING ESTABLISHMENTS

8. Register of dog breeding establishments.
9. Representations made by applicant for registration under *section 8*.
10. Appeal to District Court against decision of local authority.
11. Removal of dog breeding establishment from register.
12. Appropriate fee.
13. Annual dog breeding establishment charge.
14. Duties of operators of dog breeding establishments.
15. Identification of dogs.
16. Authorised persons.

[No. 79 of 2009]

17. Powers of authorised persons.
18. Improvement notice.
19. Closure notice.
20. Offence to operate unregistered dog breeding establishment.
21. Forgery of documents.

PART 3

AMENDMENT OF CONTROL OF DOGS ACT 1986

22. Duration of licences issued under Act of 1986.
23. Licence fees payable under Act of 1986.
24. Amendment of section 19 of Act of 1986.

ACTS REFERRED TO

Charities Act 2009	2009, No. 6
Control of Dogs (Amendment) Act 1992	1992, No. 13
Control of Dogs Act 1986	1986, No. 32
Control of Dogs Acts 1986 and 1992	
Criminal Procedure Act 1967	1967, No. 12
Local Government Act 2001	2001, No. 37
Taxes Consolidation Act 1997	1997, No. 39
Veterinary Practice Act 2005	2005, No. 22



AN BILLE UM BUNACHAIS PÓRÚCHÁIN MADRAÍ 2009
DOG BREEDING ESTABLISHMENTS BILL 2009

BILL

entitled

5 AN ACT TO REGULATE THE OPERATION OF DOG
BREEDING ESTABLISHMENTS; TO REQUIRE LOCAL
AUTHORITIES TO ESTABLISH AND MAINTAIN REGIS-
10 TERS OF DOG BREEDING ESTABLISHMENTS; TO PRO-
HIBIT THE OPERATION OF UNREGISTERED DOG
BREEDING ESTABLISHMENTS; TO AMEND THE CON-
TROL OF DOGS ACT 1986; AND TO PROVIDE FOR
MATTERS CONNECTED THEREWITH.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

15 PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Dog Breeding Establish-
ments Act 2009.

Short title,
collective citation
and
commencement.

(2) The Control of Dogs Acts 1986 and 1992 and Part 3 may be
cited together as the Control of Dogs Acts 1986 to 2009.

20 (3) This Act shall come into operation on such day or days as the
Minister may appoint by order or orders either generally or with
reference to any particular purpose or provision and different days
may be so appointed for different purposes or provisions.

2.—In this Act—

Definitions.

25 “Act of 1986” means the Control of Dogs Act 1986;

“Act of 2001” means the Local Government Act 2001;

“annual dog breeding establishment charge” has the meaning
assigned to it by *section 13*;

“appropriate fee” has the meaning assigned to it by *section 8(4)*;

30 “authorised person” means—

(a) a dog warden, or

(b) a person appointed to be an authorised person under *section 16*;

“city council” has the same meaning as it has in the Act of 2001;

“closure notice” has the meaning assigned to it by *section 19*;

“commercial boarding kennel” means a premises (other than an animal shelter) where dogs, not owned by the occupier of the premises, are temporarily sheltered, fed and watered in consideration of the payment of a fee; 5

“consumer price index number” means the All Items Consumer Price Index Number compiled by the Central Statistics Office, and a reference to the consumer price index number in respect of any year is a reference to the consumer price index number at such date in that year as is determined by the Minister with the consent of the Minister for Finance; 10

“county council” has the same meaning as it has in the Act of 2001; 15

“dog breeding establishment” means a premises at which bitches are kept, not less than 6 of which are—

(a) more than 4 months old, and

(b) capable of being used for breeding purposes,

but shall not include a local authority dog pound; 20

“dog warden” has the same meaning as it has in the Act of 1986;

“hunt club” means a hunt or game club—

(a) registered with a national hunting association that is a member of—

(i) the Hunting Association of Ireland, or 25

(ii) the Irish branch of the Federation of Associations for Hunting and Conservation of the European Union (FACE),

and

(b) that operates in accordance with the guidelines for kennel management issued by the Hunting Association of Ireland; 30

“improvement notice” has the meaning assigned to it by *section 18*;

“local authority” means—

(a) a city council, or 35

(b) a county council;

“Minister” means the Minister for the Environment, Heritage and Local Government;

“operator” means, in relation to a dog breeding establishment, the person who owns or manages the establishment or is otherwise responsible for the running of the establishment; 40

“register” has the meaning assigned to it by *section 8*;

“registration certificate” has the meaning assigned to it by *subsection (11) of section 8*;

“veterinary practitioner” means a person registered under Part 4 of the Veterinary Practice Act 2005.

5 **3.—**(1) The Minister may by regulations provide for any matter Regulations.
referred to in this Act as prescribed or to be prescribed.

10 (2) Without prejudice to any provision of this Act, regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

15 (3) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

20 **4.—**The expenses incurred by the Minister in the administration Expenses.
of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

25 **5.—**(1) A notice or other document that is required to be served Service of
on or given to a person under this Act shall be addressed to the documents.
person concerned by name, and may be so served on or given to the person in one of the following ways:

- 25 (a) by delivering it to the person;
- 30 (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address; or
- 30 (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address.

35 (2) For the purpose of this section, a company within the meaning of the Companies Acts shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

40 **6.—**(1) A person guilty of an offence under *subsection (16) or (17) of section 8* or *subsection (5) of section 17* shall be liable on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months or both. Offences.

45 (2) A person guilty of an offence under *section 11(7), 19(7), 20, or 21* shall be liable—

- 45 (a) on summary conviction, to a fine not exceeding €5,000 or imprisonment for a term not exceeding 6 months or both, or

(b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 5 years or both.

(3) Section 13 of the Criminal Procedure Act 1967 shall apply in relation to an offence to which this section applies as if, in lieu of the penalties specified in subsection (3)(a) of the said section 13, there were specified therein the penalties provided for in *subsection (2)(a)* of this section, and the reference in subsection (2)(a) of the said section 13 to the penalties provided for by subsection (3) shall be construed accordingly.

(4) Where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(5) Summary proceedings for an offence under this Act may be brought and prosecuted by the local authority in whose functional area the offence is alleged to have been committed.

(6) A fine imposed on summary conviction of an offence under this Act shall be paid to the local authority in whose functional area the offence was committed and disposed of in such manner as the local authority determines.

Fixed payment notice.

7.—(1) Where an authorised person has reasonable grounds for believing that a person has committed an offence under *subsection (17)* of *section 8*, the authorised person may give to the person a notice in writing (in this section referred to as a “fixed payment notice”) in the prescribed form stating that—

- (a) the person is alleged to have committed that offence,
- (b) the person may during the period of 21 days beginning on the date of the notice make to the relevant local authority at the address specified in the notice a payment of such amount as may be prescribed, being an amount of not more than €2,000, accompanied by the notice,
- (c) the person is not obliged to make the payment specified in the notice, and
- (d) a prosecution of the person to whom the notice is given in respect of the alleged offence will not be instituted during the period of 21 days beginning on the date of the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where a fixed payment notice is given under *subsection (1)*—

- (a) the person to whom it applies may, during the period of 21 days beginning on the date of the notice, make to the relevant local authority at the address specified in the notice the payment specified in the notice accompanied by the notice,

(b) the relevant local authority may, upon receipt of the payment, issue a receipt for it and any payment so received shall not be recoverable by the person who made it, and

5 (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

10 (3) In proceedings for an offence under *subsection (17) of section 8* it shall be a defence for the defendant to prove that he or she has made a payment, in accordance with this section, pursuant to a fixed payment notice issued in respect of that offence.

15 (4) Moneys received pursuant to the giving of a fixed payment notice shall be disposed of in a manner determined by the relevant local authority.

(5) In this section “relevant local authority” means, in relation to the alleged commission of an offence, the local authority in whose functional area the offence is alleged to have been committed.

PART 2

20 REGULATION OF DOG BREEDING ESTABLISHMENTS

8.—(1) Each local authority shall cause to be established and maintained a register (to be known as a “register of dog breeding establishments” and in this Act referred to as a “register”) of dog breeding establishments situated in its functional area. Register of dog breeding establishments.

25 (2) Where a person proposes to operate a dog breeding establishment, he or she shall, in accordance with this section, apply to the local authority in whose functional area the premises at which it is proposed to operate the dog breeding establishment is situated to have the premises registered in the register maintained by that local authority.

35 (3) A person who, immediately before the commencement of this section, was operating a dog breeding establishment shall, if he or she wishes to continue operating the establishment after such commencement, apply not later than 3 months after such commencement, to the local authority in whose functional area the dog breeding establishment is situated to have the establishment registered in the register maintained by that local authority.

(4) An application under this section shall—

(a) be in writing,

40 (b) specify the name of the applicant and the address at which he or she ordinarily resides,

45 (c) specify the address of the premises at which the applicant intends to operate a dog breeding establishment or is operating a dog breeding establishment, as the case may be,

(d) contain such other information as may be prescribed, and

- (e) unless the applicant is a fee exempt applicant, be accompanied by a fee (in this Act referred to as the “appropriate fee”).

(5) A local authority that receives an application under this section shall, subject to *subsections (6) and (7)*, register the premises or dog breeding establishment in respect of which the application is made in the register maintained by that local authority, and accordingly shall enter the following in that register: 5

- (a) the name of the applicant and the address at which he or she ordinarily resides, 10
- (b) the address of the premises or dog breeding establishment to which the application relates,
- (c) the maximum number of bitches over 4 months old capable of being used for breeding purposes that may be kept at the premises or dog breeding establishment, and 15
- (d) any conditions attaching to the registration.

(6) A local authority shall not register a premises or dog breeding establishment under this section if—

- (a) the application does not comply with *subsection (4)*, or
- (b) it is of the opinion that the premises in respect of which the application concerned was made is not suitable for the operation of a dog breeding establishment. 20

(7) A local authority may refuse to register a premises or dog breeding establishment under this section if, by reason of—

- (a) the commission by the applicant of— 25
 - (i) an offence under this Act or the Act of 1986,
 - (ii) an offence involving cruelty to an animal,or
- (b) the contravention by the applicant of—
 - (i) a provision of this Act or any regulations under this Act, or 30
 - (ii) a provision of the Act of 1986 or any regulations or bye-laws under that Act,

the local authority considers that such refusal is necessary to ensure the safeguarding of animal welfare. 35

(8) A local authority shall not make a decision to refuse to register a premises or dog breeding establishment under this section until it has considered any representations made by the applicant in accordance with *section 9*.

(9) A local authority may, after considering any representations made by an applicant in accordance with *section 9*, attach such conditions as it considers appropriate to the registration of a premises or dog breeding establishment under this section having regard to the need to protect public health and maintain animal welfare. 40

(10) A local authority shall notify an applicant under this section of—

(a) a decision to grant an application under this section,

(b) a decision to grant such application subject to conditions,
or

(c) a decision to refuse to grant such an application,

not later than 14 days from the making of the decision.

(11) Upon the registration of a premises or dog breeding establishment under this section, a certificate (in this Act referred to as a “registration certificate”) of such registration shall be issued to the applicant for registration by the local authority containing the information entered in the register maintained by that local authority in accordance with *subsection (5)*.

(12) The operator of a dog breeding establishment registered under this section shall display the registration certificate issued to him or her in respect thereof in a prominent position at that establishment.

(13) If a particular entered in a register maintained by a local authority under this section is incorrect, the operator of the dog breeding establishment to which the particular relates shall, as soon as may be after becoming aware of its being incorrect, inform the local authority concerned thereof accordingly.

(14) A local authority shall, upon becoming aware that any particular entered in the register maintained by it under this section is incorrect or has ceased to be correct, make such alterations to that register as it considers necessary.

(15) A local authority shall publish in such manner as it thinks fit, and make available for inspection at all reasonable times by members of the public, the register maintained by it under this section.

(16) A person who in purported compliance with *subsection (4)* knowingly or recklessly provides information or a particular to a local authority that is false or misleading in a material respect shall be guilty of an offence.

(17) A person who contravenes *subsection (12)* shall be guilty of an offence.

(18) In this section “fee exempt applicant” means an applicant who is—

(a) a hunt club,

(b) a charitable organisation within the meaning of the Charities Act 2009,

(c) entitled to an exemption under section 207 or 208 of the Taxes Consolidation Act 1997 and in respect of whom the Revenue Commissioners have issued a number (commonly referred to as a CHY number) for the purposes of such exemption, or

- (d) the operator of a dog breeding establishment that is used for commercial boarding kennel purposes only.

Representations made by applicant for registration under *section 8*.

9.—(1) Where a local authority proposes to—

- (a) refuse to register a premises or dog breeding establishment in accordance with *subsection (6) or (7) of section 8*, or 5
- (b) register a premises or dog breeding establishment in accordance with *subsection (9) of section 8*,

it shall notify the operator of the establishment in writing thereof.

(2) An applicant under *section 8* on whom a notification under *subsection (1)* is served may, not later than 14 days after receiving the notification make representations in writing to the local authority concerned in relation to the proposal concerned. 10

Appeal to District Court against decision of local authority.

10.—(1) A person whose application for registration of a premises or dog breeding establishment under *section 8* is refused may appeal the refusal to a judge of the District Court sitting in the district court district in which the premises or dog breeding establishment concerned is situated, not later than 14 days, or such longer period as a judge of the District Court sitting in that district may for good and sufficient reason determine, after service on the person of a notification in writing of the refusal. 15 20

(2) A person whose application for registration of a premises or dog breeding establishment under *section 8* is granted subject to conditions in accordance with *subsection (8)* of that section may appeal the attachment of any one or more of those conditions to a judge of the District Court sitting in the district court district in which the premises or dog breeding establishment concerned is situated, not later than 14 days, or such longer period as a judge of the District Court sitting in that district may for good and sufficient reason determine, after service on the person of a notification in writing of the conditions. 25 30

(3) Upon an appeal under *subsection (1)*, a judge of the District Court may make an order—

- (a) requiring the local authority concerned to register the premises or dog breeding establishment in the register maintained by it, 35
- (b) requiring the local authority concerned to register the premises or dog breeding establishment in the register maintained by it subject to the appellant’s complying with such conditions as are specified in the order, or
- (c) affirming the refusal. 40

(4) Upon an appeal under *subsection (2)*, a judge of the District Court may make an order—

- (a) removing such one or more of the conditions attached to the registration of the premises or dog breeding establishment concerned as are specified in the order, or 45
- (b) affirming the decision by the local authority to attach the conditions concerned.

(5) A local authority shall comply with an order under this section.

5 **11.**—(1) If, by reason of a relevant contravention, the District Court considers that the removal of a dog breeding establishment from the register maintained by the local authority in whose functional area the dog breeding establishment is situated is necessary to ensure the safeguarding of animal welfare, the court shall, upon the application of that local authority, make an order directing the local authority to remove the dog breeding establishment from that register.

Removal of dog
breeding
establishment from
register.

15 (2) If the District Court is satisfied that there has been a relevant contravention in relation to a dog breeding establishment and is of the opinion that the safeguarding of animal welfare can be secured by means other than the making of an order under *subsection (1)*, it may, for the purpose of safeguarding such welfare, make an order requiring the operator of that establishment to comply with such conditions as it considers appropriate.

20 (3) Where a local authority proposes to apply to the District Court for an order under this section, it shall notify the operator of the dog breeding establishment concerned in writing thereof.

(4) Where in accordance with this section, a dog breeding establishment is removed from a register—

25 (a) the local authority concerned shall enter a statement in that register that the dog breeding establishment has been so removed and a statement of the reasons for its removal, and

(b) the operator of the establishment shall forthwith surrender the registration certificate in respect of that establishment to the local authority.

30 (5) An application for an order under this section shall be made to a judge of the District Court sitting in the district court district in which the dog breeding establishment concerned is situated.

(6) A local authority shall comply with a direction in an order under this section.

35 (7) A person who contravenes—

(a) a condition specified in an order under this section, or

(b) *subsection (4)(b)*,

shall be guilty of an offence.

40 (8) In this section “relevant contravention” means, in relation to a dog breeding establishment—

(a) the commission by the operator of the establishment of—

(i) an offence under this Act or the Act of 1986, or

(ii) an offence involving cruelty to an animal,

(b) the commission of—

- (i) an offence under this Act or the Act of 1986 in relation to the establishment,
- (ii) an offence involving cruelty to an animal at the establishment,
- (c) the contravention of a provision of this Act by the operator of the establishment or in relation to the establishment, or 5
- (d) the contravention, in relation to the establishment, of—
 - (i) a condition attached to the registration of the establishment under *subsection (8) of section 8*, 10
 - (ii) a condition referred to in *paragraph (b) of section 10(3)*,
 - (iii) an improvement notice,
 - (iv) a direction under *paragraph (c) of section 18(4)*, or
 - (v) a condition specified in an order under this section. 15

Appropriate fee.

12.—(1) The appropriate fee shall—

- (a) in the case of a dog breeding establishment at which not more than 12 bitches are kept, be €400,
- (b) in the case of an establishment at which not less than 13 and not more than 25 bitches are kept, be €800, 20
- (c) in the case of an establishment at which not less than 26 and not more than 100 bitches are kept, be €1,600,
- (d) in the case of an establishment at which not less than 101 and not more than 200 bitches are kept, be €3,000, and
- (e) in the case of an establishment at which more than 200 25 bitches are kept, be—
 - (i) €3,000, and
 - (ii) €1,600 in respect of every 100 bitches in excess of that number.

(2) The Minister may by order amend *subsection (1)* by substituting for an amount standing specified for the time being in that subsection an amount equal to the amount obtained by multiplying the first-mentioned amount by the figure specified in *subsection (3)* and, if the amount so obtained is not a whole number of euros and the Minister considers it appropriate to do so rounding (up or down as he or she thinks fit) the amount to the nearest whole number of euros. 30 35

(3) The figure mentioned in *subsection (2)* is the quotient rounded up to 3 decimal places obtained by dividing the consumer price index number in respect of the year in which the order concerned is made by the consumer price index number in respect of the year in which this section comes into operation. 40

(4) Whenever an order is proposed to be made under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving the draft has been passed by each such House.

5 (5) In this section “bitch” means a bitch of more than 4 months old -that is capable of being used for breeding purposes.

13.—(1) The operator of a registered dog breeding establishment shall, upon each anniversary (in this section referred to as the “liability date”) of the registration of that establishment under this Act, be liable to pay a charge (in this Act referred to as the “annual dog breeding establishment charge”) in respect of that dog breeding establishment.

Annual dog
breeding
establishment
charge.

15 (2) The annual dog breeding establishment charge shall be paid to the local authority in which the dog breeding establishment concerned is situated on the liability date before the expiration of such period from that date as may be prescribed.

(3) The annual dog breeding establishment charge shall—

(a) in the case of a dog breeding establishment at which not more than 12 bitches are kept, be €400,

20 (b) in the case of an establishment at which not less than 13 and not more than 25 bitches are kept, be €800,

(c) in the case of an establishment at which not less than 26 and not more than 100 bitches are kept, be €1,600,

25 (d) in the case of an establishment at which not less than 101 and not more than 200 bitches are kept, be €3,000, and

(e) in the case of an establishment at which more than 200 bitches are kept, be—

(i) €3,000, and

30 (ii) €1,600 in respect of every 100 bitches in excess of that number.

(4) The annual dog breeding establishment charge shall be recoverable by the local authority concerned as a simple contract debt in any court of competent jurisdiction.

35 (5) The Minister may by order amend *subsection (3)* by substituting for an amount standing specified for the time being in that subsection an amount equal to the amount obtained by multiplying the first-mentioned amount by the figure specified in *subsection (6)* and, if the amount so obtained is not a whole number of euros and the Minister considers it appropriate to do so rounding (up or down as he or she thinks fit) the amount to the nearest whole number of euros.

45 (6) The figure mentioned in *subsection (5)* is the quotient rounded up to 3 decimal places obtained by dividing the consumer price index number in respect of the year in which the order concerned is made by the consumer price index number in respect of the year in which this section comes into operation.

(7) Whenever an order is proposed to be made under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving the draft has been passed by each such House.

(8) This section shall not apply to the operator of a dog breeding establishment if— 5

- (a) the operator of the establishment is a hunt club,
- (b) the operator of the establishment is a charitable organisation within the meaning of the Charities Act 2009,
- (c) the operator of the establishment is entitled to an exemption under section 207 or 208 of the Taxes Consolidation Act 1997 and in respect of whom the Revenue Commissioners have issued a number (commonly referred to as a CHY number) for the purposes of such exemption, or 10
- (d) the dog breeding establishment is used for commercial boarding kennel purposes only. 15

(9) In this section “bitch” means a bitch of more than 4 months old that is capable of being used for breeding purposes.

Duties of operators of dog breeding establishments.

14.—(1) The operator of a dog breeding establishment shall ensure that— 20

- (a) dogs are at all times kept in accommodation suitable as respect construction, size of quarters, number of occupants, exercising facilities, temperature, lighting, ventilation and cleanliness,
- (b) dogs are— 25
 - (i) adequately supplied with suitable food, drink and bedding material,
 - (ii) adequately exercised, and
 - (iii) inspected at suitable intervals,
- (c) all reasonable measures are taken to prevent and control the spread among dogs of infectious or contagious diseases, 30
- (d) appropriate measures are taken for the protection of dogs in case of fire or other emergency,
- (e) bitches do not give birth to more than 6 litters of pups each, and 35
- (f) not less than 12 months elapses between the birth of a litter of pups to a bitch and the birth of the next litter of pups to that bitch.

(2) The operator of a dog breeding establishment shall keep such records as may be prescribed at the dog breeding establishment and shall make them available for inspection by an authorised person or the local authority in whose functional area the dog breeding establishment is situated upon request by an authorised person or that local authority. 40 45

(3) Records to which *subsection (2)* applies shall be in such form as may be prescribed.

5 (4) The Minister may issue guidelines in relation to the operation of dog breeding establishments and the compliance by operators of dog breeding establishments with this Act.

(5) The Minister may, before issuing guidelines under this section—

(a) publish a draft of the guidelines in such manner as he or she determines,

10 (b) invite members of the public and any body or organisation to make representations to him or her in relation to the draft so published in such manner and within such period as he or she specifies, and

15 (c) consider any such representations made in the manner and within the period so specified.

(6) Guidelines issued under this section shall be published on the internet by the Minister and shall be made available for inspection by members of the public at all reasonable times at the principal office of every local authority.

20 **15.**—(1) The operator of a dog breeding establishment shall cause a microchip to be implanted in each dog kept at that establishment. Identification of dogs.

(2) The operator of a dog breeding establishment shall notify the particulars of any sale or transfer of a dog kept by him or her at that establishment in writing to—

25 (a) the local authority in whose functional area the dog breeding establishment is situated, or

(b) the person charged with the maintenance of a database to which paragraph (aa) (inserted by *section 24*) of section 19(2) of the Act of 1986 applies.

30 (3) In this section—

“authorised implanter” means—

(a) a veterinary practitioner, or

(b) a person belonging to such class of persons as may be prescribed;

35 “microchip” means a device, implanted by an authorised implanter under the skin covering the neck of a dog, bearing a number from which it is possible to identify the dog concerned and to locate information held in respect of that dog, including information held on a database established under paragraph (aa) (inserted by *section 24*)
40 of section 19(2) of the Act of 1986.

16.—(1) A local authority may appoint such and so many— Authorised persons.

(a) veterinary practitioners, or

- (b) persons connected with animal welfare with whom an arrangement has been entered into under section 15(3) of the Act of 1986,

as he or she considers appropriate to be an authorised person or authorised persons for the purposes of this Act. 5

(2) A body with which a local authority has entered into an arrangement under section 15(3) of the Act of 1986 may, after consultation with that local authority, appoint such and so many of its members of staff, as it considers appropriate, to be an authorised person or authorised persons for the purposes of this Act. 10

(3) A person appointed to be an authorised person under this section shall on his or her appointment be furnished—

- (a) in the case of a person appointed under *subsection (1)*, by the local authority concerned, and

- (b) in the case of a person appointed under *subsection (2)*, by the body concerned, 15

with a warrant of his or her appointment, and when exercising a power conferred by this Act shall, if requested by any person thereby affected, produce such warrant to that person for inspection.

Powers of authorised persons.

17.—(1) For the purposes of this Act, an authorised person may— 20

- (a) subject to *subsection (3)*, enter and inspect at all reasonable times any premises—

- (i) which he or she has reasonable grounds for believing are being used for the operation of a dog breeding establishment, 25

- (ii) in respect of which an application has been made under *section 8*, or

- (iii) at which he or she has reasonable grounds for believing records or documents relating to a dog breeding establishment are being kept, 30

- (b) at such premises inspect and take copies of, any books, records or other documents (including books, records or documents stored in non-legible form), or extracts therefrom, that he or she finds in the course of his or her inspection, 35

- (c) remove any such books, documents or records from such place of work or premises and detain them for such period as he or she reasonably considers to be necessary for the purposes of his or her functions under this Act,

- (d) require— 40

- (i) the operator of a dog breeding establishment,
 - (ii) any applicant for registration under *section 8*, or
 - (iii) any person at the premises concerned, including the owner or person in charge of that place or premises,

to give the authorised person such information and assistance as the authorised person may reasonably require for the purposes of his or her functions under this Act,

(e) require—

- (i) the operator of a dog breeding establishment,
- (ii) any applicant for registration under *section 8*, or
- (iii) any persons at the premises concerned, including the owner or person in charge of that place or premises,

to produce to the authorised person such books, documents or other records (and in the case of documents or records stored in non-legible form, produce to him or her a legible reproduction thereof) that are in that person's possession or procurement, or under that person's control, as he or she may reasonably require for the purposes of his or her functions under this Act,

(f) examine with regard to any matter under this Act any person whom the authorised person has reasonable grounds for believing to be—

- (i) the operator of a dog breeding establishment,
- (ii) to be employed at a dog breeding establishment, or
- (iii) to be an applicant for registration under *section 8*,

and require the person to answer such questions as the authorised person may ask relative to those matters and to make a declaration of the truth of the answers to those questions.

(2) When performing a function under this Act, an authorised person may, subject to any warrant under *subsection (4)*, be accompanied by such number of other authorised persons or members of the Garda Síochána as he or she considers appropriate.

(3) An authorised person shall not enter a dwelling, other than—

- (a) with the consent of the occupier, or
- (b) pursuant to a warrant under *subsection (4)*.

(4) Upon the sworn information of an authorised person, a judge of the District Court may—

- (a) for the purposes of enabling an authorised person to carry out an inspection of—
 - (i) premises that the authorised person has reasonable grounds for believing are being used for the operation of a dog breeding establishment, or
 - (ii) premises in respect of which an application has been made under *section 8*,

or

- (b) if satisfied that there are reasonable grounds for believing that information, books, documents or other records (including information, books, documents or records stored in non-legible form) required by an authorised person under this section is or are held in any place or premises, 5

issue a warrant authorising a named authorised person accompanied by such other authorised persons or members of the Garda Síochána as may be necessary, at any time or times, before the expiration of one month from the date of issue of the warrant, to enter the dwelling and perform the functions of an authorised person under *subsection (1)*. 10

(5) A person shall be guilty of an offence if he or she—

- (a) obstructs or interferes with an authorised person or a member of the Garda Síochána in the course of exercising a power conferred on him or her by this Act or a warrant under *subsection (4)* or impedes the exercise by the person or member, as the case may be, of such power, or 15
- (b) fails or refuses to comply with a request or requirement of, or to answer a question asked by, the person or member pursuant to this section, or in purported compliance with such request or requirement or in answer to such question gives information to the person or member that he or she knows to be false or misleading in any material respect. 20 25

(6) Where an authorised person believes, upon reasonable grounds, that a person has committed an offence under this Act, he or she may require that person to provide him or her with his or her name and the address at which he or she ordinarily resides. 30

(7) A statement or admission made by a person pursuant to a requirement under *subsection (1)(d)* or *(f)* shall not be admissible as evidence in proceedings brought against the person for an offence (other than an offence under *subsection (5)*).

Improvement notice.

18.—(1) Where an authorised person is satisfied that— 35

- (a) in relation to a dog breeding establishment there has been a contravention of this Act or a condition attaching to the registration of that dog breeding establishment in the register maintained by the local authority in whose functional area the dog breeding establishment is situated, or 40
- (b) that a dog breeding establishment is being maintained in a manner that poses or is likely to pose a threat to public health or animal welfare,

the authorised officer may serve a notice (in this Act referred to as an “improvement notice”) on the operator of the establishment. 45

(2) An improvement notice shall—

- (a) state the grounds for the authorised person’s being satisfied that there has been a contravention referred to in *paragraph (a)* of *subsection (1)* or that the dog breeding

establishment concerned is being maintained in a manner referred to in *paragraph (b)* of that subsection,

5 (b) require the operator of the dog breeding establishment concerned to take such measures as are specified in the notice to cease the contravention, or avoid or prevent the threat concerned,

(c) specify the period within which those measures shall be taken,

10 (d) state that if the measures concerned are not taken within the period so specified an application will be made to the District Court to have the dog breeding establishment removed from the register, and

15 (e) inform the operator of the dog breeding establishment that he or she may appeal the improvement notice to the District Court in accordance with this section.

(3) The operator of a dog breeding establishment upon whom an improvement notice is served may, not later than 7 days from the service of the notice (or such longer period as the District Court may, for good and sufficient reason, determine) appeal the notice to a judge of the District Court sitting in the district court district in which the dog breeding establishment concerned is situated.

(4) Upon an appeal under this section, a judge of the District Court may—

(a) affirm the notice,

25 (b) revoke the notice, or

(c) revoke the notice and order the operator of the dog breeding establishment concerned to comply with such directions as may be given by the judge.

30 (5) An improvement notice in respect of which an appeal is brought under this section shall not have effect pending the making of an order under *subsection (4)*, if the judge of the District Court before whom the appeal is brought so directs.

(6) A local authority may withdraw an improvement notice under this section.

35 **19.—(1)** A local authority may, if it is satisfied that the operation of a dog breeding establishment situated in its functional area poses a serious and immediate threat to public health or animal welfare, serve or cause to be served, on the operator of the establishment a notice (in this Act referred to as a “closure notice”) requiring the operator to cease breeding or keeping dogs at the establishment. Closure notice.

(2) A closure notice shall, in addition to specifying the requirement referred to in *subsection (1)*—

45 (a) state the grounds for the local authority’s being satisfied that the operation of the dog breeding establishment concerned poses a serious and immediate threat to public health or animal welfare, as the case may be,

- (b) require the operator of the dog breeding establishment to surrender the registration certificate to the local authority issuing the notice,
- (c) inform the operator of the dog breeding establishment that he or she may appeal the notice to the District Court in accordance with this section, 5
- (d) require the operator of the dog breeding establishment to take such measures as the local authority directs to enable the rehousing, at the expense of the operator, of all dogs being kept for the time being at the establishment, and 10
- (e) state that if the operator of the dog breeding establishment concerned contravenes the closure notice he or she shall be guilty of an offence.

(3) A copy of a closure notice served by a local authority under this section shall be affixed by the local authority to the dog breeding establishment to which the notice relates, and the local authority shall also publish the notice in such other manner as it considers appropriate for the purpose of bringing it to the attention of members of the public. 15 20

(4) The operator of a dog breeding establishment upon whom a closure notice is served may, not later than 7 days after the service of the notice (or such longer period as the District Court may, for good and sufficient reason, determine) appeal the notice to a judge of the District Court sitting in the district court district in which the dog breeding establishment concerned is situated. 25

(5) Upon an appeal under this section, a judge of the District Court may—

- (a) affirm the notice,
- (b) revoke the notice, or 30
- (c) revoke the notice subject to the operator of the dog breeding establishment concerned complying with such directions as may be given by the judge.

(6) A local authority may withdraw a closure notice under this section. 35

(7) A person who contravenes a closure notice or a direction of the District Court under this section shall be guilty of an offence.

Offence to operate unregistered dog breeding establishment.

20.—(1) The owner, occupier and operator of a dog breeding establishment that is not registered in the register maintained by the local authority in whose functional area the dog breeding establishment is situated shall each be guilty of an offence. 40

(2) This section shall not apply to the operator of a dog breeding establishment to which *subsection (3) of section 8* applies—

- (a) during the period referred to in that subsection, or
- (b) where the operator of the dog breeding establishment has made an application under that subsection, during that 45

period and such further period as begins on the expiration of the first-mentioned period and ends when the local authority to which it has made the application notifies the operator in writing of its decision in relation to the application.

5

21.—(1) A person who forges or utters knowing it to be forged— Forgery of documents.

(a) a register, an entry in such register or a document purporting to be an extract from such register (in this section referred to as a “forged register”), or

10 (b) a notice, certificate or other document purporting to be issued, granted or given under this Act (in this section referred to as a “forged document”),

shall be guilty of an offence.

(2) A person who alters with intent to defraud or deceive, or
15 utters knowing it to be so altered—

(a) a register, an entry in such register or a document purporting to be an extract from such register (in this section referred to as an “altered register”), or

20 (b) a notice, certificate or other document issued, granted or given under this Act (in this section referred to as an “altered document”),

shall be guilty of an offence.

(3) A person who, without lawful authority, has in his or her possession a forged register, a forged document, an altered register or
25 an altered document shall be guilty of an offence.

PART 3

AMENDMENT OF CONTROL OF DOGS ACT 1986

22.—The Act of 1986 is amended by substituting the following section for section 7: Duration of licences issued under Act of 1986.

30 “7.—(1) A dog licence shall be in the prescribed form and shall be valid—

(a) at the option of the person to whom it is issued, for—

(i) a period of 12 months, or

35 (ii) any longer period standing prescribed for the time being,

from the date of its issue, or

(b) at the option of the person to whom it is issued, a period that is contemporaneous with the remainder of the lifetime of the dog in respect of which the licence is issued.
40

(2) A general dog licence shall be in the prescribed form and shall be valid, at the option of the person to whom it is issued, for the period of 12 months, or any longer period standing prescribed for the time being, from the date of its issue.”.

Licence fees payable under Act of 1986.

23.—The Act of 1986 is amended by substituting the following section for section 8: 5

“8.—(1) The following fees are payable to a local authority:

- (a) in respect of the issue of a dog licence to which paragraph (a) of subsection (1) of section 7 (inserted by section 22 of the *Dog Breeding Establishments Act 2009*) applies, €20; 10
- (b) in respect of the issue of a dog licence to which paragraph (b) of the said subsection (1) applies, €140; or
- (c) in respect of the issue of a general dog licence, €400.

(2) The Minister may by order amend subsection (1) by substituting for an amount standing specified for the time being in that subsection an amount equal to the amount obtained by multiplying the first-mentioned amount by the figure specified in subsection (3) and, if the amount so obtained is not a whole number of euros and the Minister considers it appropriate to do so rounding (up or down as he or she thinks fit) the amount to the nearest whole number of euros. 15 20

(3) The figure mentioned in subsection (2) is the quotient rounded up to 3 decimal places obtained by dividing the consumer price index number in respect of the year in which the order concerned is made by the consumer price index number in respect of the year in which section 23 of the *Dog Breeding Establishments Act 2009* comes into operation. 25

(4) Whenever an order is proposed to be made under this section, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving the draft has been passed by each such House. 30

(5) In this section ‘consumer price index number’ means the All Items Consumer Price Index Number compiled by the Central Statistics Office, and a reference to the consumer price index number in respect of any year is a reference to the consumer price index number at such date in that year as is determined by the Minister with the consent of the Minister for Finance.”. 35

Amendment of section 19 of Act of 1986.

24.—Section 19 (inserted by section 8 of the Control of Dogs (Amendment) Act 1992) of the Act of 1986 is amended, in subsection (2), by the insertion of the following paragraphs after paragraph (a): 40

“(aa) provide for the establishment and maintenance of a database containing information relating to all dogs in the State, 45

(ab) make provision in relation to such database, including provision in relation to the information or classes of information that shall be recorded in such database, the publication of such information and the persons to whom such information may be provided;”.

5

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AN BILLE UM BUNACHAIS PÓRÚCHÁIN MADRAÍ 2009
DOG BREEDING ESTABLISHMENTS BILL 2009

EXPLANATORY AND FINANCIAL MEMORANDUM

The purpose of the Bill is to give legislative basis for the regulation of dog breeding establishments and to provide for an increase in fees for dog licences in addition to some other amendments to the Control of Dogs Acts 1986-1992.

Part 1, *Sections 1-5* contain the usual provisions of a general nature dealing with such matters as short title, collective citations and commencement, definitions, regulations, expenses of the Minister, and service of documents.

Section 6 (Offences) provides for fines not exceeding €5,000 or imprisonment up to 6 months on summary conviction for certain offences including providing false information, non display of registration certificate or obstruction of authorised personnel. The same penalties can be applied to summary conviction for forgery and contravening a closure order for a dog breeding establishment. Increased penalties can be applied on indictment. Fines shall be paid to the relevant local authority.

Section 7 (Fixed payment notice) provides that a fixed notice fine can be issued for non display of a registration certificate not exceeding €2,000, which will fall due within 21 days. Monies so raised will be payable to the relevant local authority.

Part 2 contains *Sections 8-21* which deal with the regulation of dog breeding establishments.

Section 8 (Register) instructs local authorities to have a register of dog breeding establishments and requires operators of such establishments to register in the manner required and pay an annual fee. *Section 8(3)* provides that existing dog breeding establishments can continue to operate for three months after the commencement of the Act. Under *8(6)* a local authority shall not register a premises if the application is not in order, the applicant is in breach of the Act or if the local authority is of the opinion that the premises is not suitable for the operation of a dog breeding establishment. Each premises will receive a "registration certificate" which must be prominently displayed (*subsection (12)*). Under *subsection (18)* hunt clubs, commercial boarding kennels and charitable dog operations (e.g. mountain rescue) would be exempt from paying fees but must

register and be subject to possible inspection. Commercial boarding kennels will also be exempt from paying registration fees.

Section 9 (Representations) provides 14 days for applicants to make representation against the local authority's intent to refuse registration. This section also provides that a local authority will notify each applicant whether it is to be registered or not.

Section 10 (Appeals) sets out the circumstances whereby an applicant may appeal the decision of the local authority to the relevant District Court against a refusal to register the dog breeding establishment or conditions that the local authority has set for registration. In the case of a refusal the District Court can order that the establishment be registered, set conditions for registration or affirm the refusal.

Section 11 (Removal) provides for removal of dog breeding establishments from the Register by order of the District Court and conditions which the District Court may impose. Reasons for removing an establishment from the Register include where the operator has been convicted of cruelty to animals, has been convicted of an offence under this Act or the 1986 Control of Dogs Act, has breached an improvement order or a court order. A person who contravenes an order under this section shall be guilty of an offence.

Section 12 (Fees) sets out the appropriate fees in relation to a dog breeding establishment and that the Minister may by regulation vary these charges in line with the Consumer Price Index.

Section 13 (Annual Charge) sets the registration charges as an annual charge payable to the relevant local authority and provides that certain types of dog breeding establishments shall not have registration charges applied, including hunt clubs, charitable organisations and commercial boarding kennels.

Section 14 describes in general terms the **duties of operators** in relation to the conditions in dog breeding establishments which operators must provide and that records must be kept and be available for inspection. Section 14(5) provides for the Minister to invite representations on draft guidelines, consider representations received and publish guidelines in relation to dog breeding establishments.

Section 15 (Identification of Dogs) provides for all dogs in a dog breeding establishment to be microchipped and for updating of the database and for the microchipping to be carried out by an authorised implanter.

Section 16 (Authorised persons) allows a local authority to appoint certain persons including veterinary practitioners and those connected with animal welfare to act as authorised persons to assist the local authorities in its duties under the Act.

Section 17 enumerates the **powers of authorised persons** including the power to enter and inspect any premises, other than a dwelling, suspected of being a dog breeding establishment. The authorised person can inspect and take copies of records kept on the premises and can require the owner, operator or those employed in the establishment to answer relevant questions. Subsection (2) provides that an authorised person may be accompanied by other authorised persons or the Gardaí. It will be an offence to obstruct or refuse to comply with the authorised persons under section 17. An authorised

person cannot enter a dwelling without the consent of the occupier or, failing consent, without a warrant issued by the District Court.

Section 18 provides for the local authority to serve an **improvement notice** on the establishment if the establishment is believed to be in breach of the Act or there is a threat to public health or animal welfare. The improvement notice will contain details of specific measures which are required to be taken within a specified timeframe and will inform the operator of the option to appeal to the District Court. Subsection (3) provides that the notice may be appealed to the District Court.

Section 19 provides for a local authority to issue a **closure notice** requiring a dog breeding establishment to cease breeding or keeping dogs at the establishment on the basis of stated grounds. Provision is made for appeal to the District Court which shall affirm the notice, revoke it or give direction to the establishment. It will be an offence to contravene a closure notice.

Section 20 makes it an offence to operate an unregistered dog breeding establishment except in specified circumstances where there is an application submitted or where it is subject to appeal.

Section 21 (Forgery) makes it an offence to forge registration material or knowingly provide forged documentation or alter registration material with intent to defraud or deceive.

Part 3 contains a number of amendments to the 1986 Control of Dogs Act.

Section 22 provides for the addition of a new form of dog licence to cover the lifetime of a dog by varying the duration of the dog licence.

Section 23 sets out the new licence fees as €20 for an individual dog licence, €400 for a general dog licence for numerous dogs and €140 for the lifetime of a dog licence. This section also allows the Minister to vary fees payable in line with the Consumer Price Index.

Section 24 provides for the establishment and maintenance of a database and the information to be held therein.

Financial Implications

The provisions of the Bill in relation to dog breeding establishments will be cost neutral to the Exchequer. The provisions in relation to increasing the dog licence fees will only reduce the present loss that local authorities incur in providing a dog control service. The new charges for licence fees would raise an estimated €4.3 million compared with the €2.8 million raised in 2008. However, the cost of the service in 2008 was €5.7 million.

*An Roinn Comhshaol, Oidreacht and Rialtais Áitiúil,
Nollaig, 2009.*