

Explanatory Memorandum to the Animal Welfare (Identification of Dogs) (Wales) Regulations 2014.

This Explanatory Memorandum has been prepared by the Office of the Chief Veterinary Officer and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Animal Welfare (Identification of Dogs) (Wales) Regulations 2014. I am satisfied that the benefits justify the likely costs.

Alun Davies AM
Minister for Natural Resources and Food

DATE: 18 June 2014

1. Description

These Regulations provide for the identification of all dogs in Wales through the implantation of a microchip. Puppies born after the legislation has commenced will be required to be microchipped before they are 56 days old; the purpose of microchipping puppies would be to ensure an audit trail from the premises of its birth to any new owner/keepers. Should welfare or medical problems arise in the future which indicate that the source of the problem was from the place of birth, it would be possible to establish that link and take the necessary action to ensure there is no future reoccurrence.

A person who fails to identify his or her dog as required under the Regulations commits an offence under the Animal Welfare Act 2006 and is liable to a fine not exceeding level 2 on the standard scale.

Under section 30 of the Animal Welfare Act 2006 Local Authorities may prosecute for any offence under the Act.

Compulsory microchipping in Wales is supported by the Police, Veterinarians (Royal College of Veterinary Surgeons and British Veterinary Association) and welfare organisations including the RSPCA, Dogs Trust and Advisory Council on the Welfare of Dogs. It is firmly believed that this measure will have a positive impact on animal welfare and may assist in the control of dangerous and nuisance dogs. The traceability of all dogs back to their owners and ultimately back to the breeders will help to encourage more responsible ownership and breeding as enforcement authorities will find it easier to take remedial action and, where appropriate, prosecutions.

Compulsory microchipping has already been introduced for dogs in France, Denmark, Slovenia, Switzerland, the Netherlands, Spain, Portugal, Canada, Hong Kong, Israel and Japan. In other countries, certain regions or areas have done so, such as Prague in the Czech Republic and several states in Australia. In European countries with compulsory microchipping, there are high levels of compliance with 80-90% of dogs estimated to be microchipped (European Pet Network/The Kennel Club estimates). Further, in Sweden, it is a legal requirement for dogs to be registered and permanently identified from four months of age. Since 2000, identification by microchip is preferred over marking with an ear tattoo. Dogs must be registered with the Swedish Authorities within four weeks of being transferred to a new owner. As a consequence, over 90% of stray dogs are reunited with their owners within 24 hours of being collected by the authorities (Tasker, L (2008) Stray Animal Control Practices (Europe) WSPA/RSPCA International).

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None identified.

3. Legislative background

These Regulations will be made under section 12(1) of the Animal Welfare Act 2006. Section 12(1) gave the National Assembly power to make regulations promoting the welfare of animals. Those powers are now vested in the Welsh Ministers by operation of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

Section 12(6) of the Act requires that the Welsh Ministers consult with person appearing to them to represent any interest concerned prior to exercising that power

Regulations made under section 12 are subject to approval by the National Assembly for Wales by affirmative resolution procedure.

4. Purpose & intended effect of the legislation

The purpose of the Regulations is to allow the permanent identification of dogs through the implantation and subsequent registration of a microchip (a read only passive radio frequency identification device), to increase traceability of dogs and provide a deterrent against irresponsible ownership. This is an integral part of a wider policy on raising standards of welfare for dogs.

A microchip is a passive device unless stimulated by an appropriate scanner which can receive a radio signal from the microchip indicating its identification code. This code can then be mapped against the data recorded on the microchip database to identify the owner of the dog and therefore ensures accurate traceability.

The merit of being able to identify a dog has long been acknowledged in UK law. Although the dog licence was abolished in 1987, it is still a legal requirement under the Control of Dogs Order 1992 for a dog to wear a collar and tag with the owner's name and address on it whilst in a public place. This method of identification is not permanent; the Dogs Trust Stray Dog Surveys of 2011-13 indicated from responses received that only 4-5% of dogs returned to owners were as a result of collars and tags. However, due to the benefits of the identity of a dog's owner being visible to all where a collar/tag is available, without the need for an electronic scanner, this legislation will not be superseded but complemented by the microchipping legislation.

By requiring this permanent method of identification, more lost dogs will be reunited with their owners more quickly to the benefit of owners and dogs, saving Local Authorities and charities considerable kennelling costs. It will also be easier for those responsible for tackling abuses of dog welfare to bring owners to account and to protect public safety.

It is also important to recognise that this legislation is part of a wider set of controls relating to dogs. Traceability back to owners and, for puppies, dog breeders, will in the longer term lead to dog health improvements. In the case of

breeders, poor breeding conditions can lead to physical and mental health problems; traceability may encourage greater responsibility for a dogs' welfare.

The main policy proposals for the Animal Welfare (Identification of Dogs) (Wales) Regulations 2014, which will come into force on 1st March 2015, include:

- the requirement to microchip puppies before they are 56 days old, and older dogs before 1st March 2015;
- the seller being responsible for the transfer of ownership of a dog on the relevant microchip database, within 7 days of rehoming. For newly microchipped animals, this must be done within 7 days of implantation;
- standardising the details that must be recorded by microchip database providers; and
- creating an offence if a dog that is resident in Wales for more than 30 days per year, and has not been exempted by a veterinary surgeon on significant health grounds, is not microchipped.

The Regulations cover the basic requirements to introduce compulsory microchipping in Wales. Officials are working with counterparts in Defra on the development of Industry Standards for microchips and databases, as well as a compulsory training course for implanters. Once this work has been completed, the Animal Welfare (Identification of Dogs) (Wales) Regulations 2014 will be amended to include these additional requirements in due course.

5. Consultation

A consultation on proposals to introduce regulations requiring the compulsory microchipping of dogs in Wales was launched on 16th May 2012 for a period of 12 weeks. Nine questions were asked, seeking opinion on aspects such as whether the general public thought compulsory microchipping should be introduced; how the requirement would be introduced (e.g. compliance within one year of legislation coming into force, only on transfer etc.); data storage and access; exemptions and cost analysis, among other issues.

120 individual responses (excluding approximately 1,000 campaign letters) were received in total; a summary of the responses can be seen here: <http://wales.gov.uk/consultations/environmentandcountryside/120516microchippingdogs/?status=closed&lang=en>. It was clear from the consultation that the overwhelming majority of respondents (84%) thought compulsory microchipping of dogs should be introduced in Wales. The majority felt that there should be no exemptions other than on health grounds (as assessed by a veterinary health care professional) and that the current information storage on commercial databases was adequate. There were, however, concerns raised about access to information due to animal rights activists and recent attacks on dog breeders.

Discussions have taken place with representatives of the Welsh Local Authorities, Dogs Trust and The Kennel Club to discuss the introduction of compulsory microchipping.

Key issues raised were:

- No single point of contact to find microchip details.
- Databases should be signed up to Europetnet, a group of national and local associations based across Europe who register information about pets that have been uniquely identified with a microchip.
- Exemptions needed for smaller dogs, due to welfare implications.
- Ensuring it is required in law that information is kept up-to-date.
- Where the responsibility to microchip and register as the owner of a dog would lie when it came into a Local Authority kennel or sanctuary.
- Clarifying notes should be embedded in the Regulations.
- Training for dog wardens essential.
- Fixed penalty notices should be included.

PART 2 – REGULATORY IMPACT ASSESSMENT (RIA)

The following assessment offers a view on the likely impact of the Regulations on dog owners/keepers, veterinary surgeries, database operators, enforcers and on animal welfare. In the circumstances and based on the data and evidence available, the Welsh Government believe that the benefits justify the likely costs

Options

Following the analysis of the results of the public consultation in 2012, the options that were agreed for consideration were to do nothing, or to microchip all dogs before an agreed coming into force date, and all puppies born after this date by the time they were 56 days old. The latter allows a definite date upon which complete enforcement activity could commence and allows parallel working with Defra, who are also introducing compulsory microchipping in England.

Option 1: Not introduce legislation but continue to work with Local Authorities and third sector organisations to encourage owners to microchip their dogs on a voluntary basis

This is the 'Do Nothing' option and maintains the current policy position in which the microchipping of dogs is a voluntary procedure, with the decision resting entirely with the dog's owner/keeper.

In Wales, we have already benefitted from the different companion animal welfare organisations working closely together. The Animal Welfare Network Wales, Companion Animal Welfare Enhancement Scheme (CAWES) and its successor the Cross-Sector Companion Animal Welfare (C-SCAW) Forum all helped to foster a strong working link between many organisations.

The Kennel Club together with Dogs Trust and other welfare organisations have provided significant financial support to initiatives aiming to increase the voluntary uptake of microchipping over the years. These initiatives include funding microchips for lower income owners, regional microchip installation, and advertising campaigns. Veterinarians also encourage microchipping.

The Dogs Trust, in common with other re-homing/rescue organisations microchip every dog that arrives at their 17 re-homing centres in the UK that is not already microchipped. All of their centres offer £10 dog microchipping to any owner or free microchipping for owners on means tested benefits.

At the 2010 Welsh Government Microchipping Workshop it was estimated that 30-35% of dogs in the UK were already microchipped. Through campaigns by Local Authorities and third sector organisations, Dogs Trust data suggests that this figure has risen to approximately 58%. However, it is estimated that only 23% of strays received by Local Authorities are microchipped. Given the efforts made already to encourage owners to microchip their dogs, it is firmly believed that the only way to achieve a significant increase in the take-up of

microchipping is for government intervention through the introduction of compulsory microchipping.

Option 2: Microchip all dogs before the coming into force date of 1st March 2015, and all puppies born after this date by the time they are 56 days old.

Puppies born after the legislation came into force would be microchipped by the time they are 56 days old. Older dogs would be microchipped before the date the legislation came into force. This would help relieve the potential burdens on microchipping database operators and possible processing costs and delays. This Option would provide a standard approach to enforcement and would start to have a positive impact on reunification and rehoming before the legislation came into force, easing the burden on Local Authorities and dog rehoming centres.

Costs & Benefits

Costs

Option 1 – Do Nothing

This option maintains the current policy position of microchipping being a voluntary procedure; there are therefore no additional costs associated with this option.

Option 2: Microchip all dogs before the coming into force date of 1st March 2015, and all puppies born after this date by the time they are 56 days old.

Welsh Government

The Welsh Government will be responsible for communicating the change in Regulations to stakeholders and the general public; a budget of approximately £1,000 has been allocated for the Welsh Government's dog welfare communications work.

Local Authorities

This option may result in an increase in the administration and enforcement costs incurred by Local Authorities. However, we understand that Local Authorities intend to take a reactive rather than proactive approach to enforcing these Regulations. As such, it is expected that that enforcement will be restricted to irresponsible owners whose dogs have been allowed to cause a problem such as fouling, being out of control or stray, cruelty cases or cases of unlicensed breeding. The additional cost to Local Authorities for monitoring/enforcing compliance is therefore expected to be minimal.

There will be a cost to Local Authorities to purchase equipment to check dogs for microchips (i.e. a scanner, which is approximately £80); however most Local Authorities should already have this equipment to allow their dog wardens to carry out their functions. A survey of Local Authorities was carried out by the Welsh Government in October 2009: 12 Authorities responded, with all confirming that their dog wardens were issued with microchip scanners.

Dog wardens may also microchip stray dogs prior to reunification or rehoming. If not already qualified, training would cost approximately £174. However, in the 2009 survey mentioned above, all Local Authorities who responded confirmed that they already had officials trained to implant microchips. There are therefore assumed to be no additional costs incurred by Local Authorities to purchase scanners or train staff to microchip dogs.

Dog Owners/Keepers

There will be a one-off cost to some dog owners associated with having their dog microchipped or updating database records prior to the coming into force date of March 1st 2015. This cost will only apply to those owners whose dog is not already microchipped or where the microchip database records are out of date.

The Welsh Government's National Survey for Wales 2009-10 revealed that 61% of Welsh households owned at least one dog, amounting to an approximate 450,000 dogs in Wales. It is estimated by Dogs Trust that 58% of dogs are already microchipped, leaving approximately 189,000 animals to microchip. The average cost charged for the procedure is approximately £10-30; therefore the total one-off cost will range from £1.89 million to £5.67 million (assuming 100% compliance).

Since the Regulations will also require all puppies to be microchipped, the cost to dog owners in future years will relate to ensuring that the microchip database records are up-to-date when they purchase, sell or re-home a puppy or dog. There is an approximate cost of £16 per dog¹ to update the details kept on the microchip database. There is concern that owners/keepers will forget or refuse to update the database, however the Welsh Government will be carrying out a communications strategy, both in parallel to the coming into force of the Regulations and as an annual campaign, to emphasise the importance of the record being accurate. Other organisations are also carrying out work to this effect; for example, the Microchipping Alliance have already been working in partnership with the Communications Workers Union and the Post Office to ensure that this requirement is added to the list of advice given by the Post Office to persons who are moving home.

Financial constraints are not assumed in themselves to be an impediment for dog owners to microchip. Installation of a microchip is a small expense relative to the lifetime expense of a dog which is estimated by the RSPCA at between £16,000 - £31,000 depending on the breed and size of the dog. Furthermore, there are welfare organisations providing a free microchipping service to all dog owners; Dogs Trust in particular currently offer free microchipping to members of the public and have committed to offer this service until the coming into force date. In the 2009 Welsh Government survey to Local Authorities, of the 12 that responded, 75% had also offered financial assistance to dog owners to get their animals microchipped. Welfare organisations already strongly promote microchipping and a majority of vets offer a microchipping service along with organisations such as pet supermarkets and some dog groomers.

Microchipping is also already a requirement for all dogs whose tails are docked under the Docking of Working Dogs' Tails (Wales) Regulations 2007: these Regulations require docked dogs to be microchipped by the time they are 12

¹ All four databases offer a 'lifetime' service for a fee of £15 -18, with a median of £16. This fee covers the registration of the new keeper and any updates to the registered details (such as change of address) for the lifetime of the dog whilst with the keeper (or up to 8 years in one case).

weeks old, to provide a link between the animal and the certificate that was issued as proof that the procedure was carried out legally. These Regulations will amend the Docking Regulations to ensure all puppies are microchipped before they are 56 days old.

Dog Breeders

Licensed dog breeders will be expected to microchip their dogs and puppies prior to rehoming under the requirements of the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014; this legislation is due to come into force in Wales prior to the microchipping Regulations. The cost to dog breeders has been considered in the RIA that accompanied those Regulations.

In addition, the requirement to microchip all puppies before they are 56 days old will impose a cost on small-scale dog breeders that will not require a license under the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 (i.e. those that breed 1 or 2 litters per annum). Assuming an average of 5 puppies per litter, these breeders may have 5-10 puppies to microchip each year at a cost of £50 to £300 per annum (£10-30 per animal). It is expected that this cost would be passed to the eventual owner of the puppy.

Database operators

Demand will increase as new and existing dog owners arrange for their animals to be microchipped. This may cause a temporary human resource issue for database operators, however in a meeting with Welsh Government officials, representatives of the main databases suggested that this would not be significant due to the registrations mainly being carried out electronically. Furthermore, the long lead in time and planned communication campaign should help to ensure a steady flow of registrations and help database providers manage their workloads. In any case, the database providers will receive a fee for all new and updated registrations.

The Regulations require that a database must record a keeper's name, address and contact telephone number for the purposes of identification of the dog and its' owner. All of the existing database providers currently record this information and so there are not assumed to be any additional costs associated with changing databases, forms and/or existing records.

Suitably qualified implanters

No additional costs have been identified for existing implanters as they will already be trained and have the necessary equipment. The Regulations are expected to lead to an increase in the number of owners that have their dog microchipped, however, the implanters will be paid a fee for providing this service. For new implanters, the costs of training and equipment are set out above.

Justice System

As referenced earlier in this report, in European countries with compulsory microchipping in force, there are high levels of compliance with 80-90% of dogs estimated to be microchipped, suggesting that prosecutions would be minimal. Under the Animal Welfare Act 2006 (the 'parent' Act), enforcers will have the power to issue improvement notices before having to take any legal action, reducing the potential impact on the judicial system. In any case, it is likely that any enforcement action will be part of a wider action against an irresponsible dog-owner and actions on just failing to microchip will be very few.

In addition to this legislation, microchipping can also be imposed under the powers within the Antisocial Behaviour, Crime and Policing Act, which can be enforced by Local Authorities and Police.

Benefits

Option 1 – Do Nothing

This option maintains the current policy position of microchipping being a voluntary procedure; there are therefore no additional benefits associated with this option.

Option 2: Microchip all dogs before the coming into force date of 1st March 2015, and all puppies born after this date by the time they are 56 days old.

Welsh Government

Animal welfare is a priority for the Welsh Government. Separately, the compulsory microchipping of dogs in Wales is one aspect of a much wider policy on improving dog welfare. The Regulations tie in with a wider policy promoting responsible dog ownership, providing consistency across the board.

Local Authorities and Rescue Organisations

A microchip will assist in reuniting owners with dogs that have strayed. Dogs may suffer stress whilst accommodated in animal welfare establishments or Local Authority kennels. Reuniting dogs with their owners sooner could significantly reduce the amount of time they spend in such places. In 2010/11 over 126,000 stray dogs were collected by UK Local Authorities. Of these, over half (52%) could not be returned to their owners because they were unidentifiable. For the financial year ending April 2012, 10,230 stray dogs were collected by Welsh Local Authorities. 543 dogs were put to sleep and many others had a lengthy stay in kennels, away from their owner.

Kennelling stray dogs costs Local Authorities, on average, £21 per dog per day (Defra Impact Assessment on Compulsory Microchipping) and almost all such dogs incur seven days of costs. After this time, if a dog is not rehomed, it would normally face euthanasia or transfer to an animal shelter. Euthanasia costs an average of £45 per dog (procedure and disposal of the body) (GfK NOP Social Research 2011 op.cit.). As well as reducing or removing these costs through faster reunification of dogs with their owners, there is also the potential for Local Authorities to make additional revenue, through reunification fees and charging for microchipping services. In addition, there are possible benefits to rescue centres if more dogs are reunited with their owners by the Local Authority rather than being handed into their care.

The Dogs Trust² has previously presented an estimate of the potential annual cost savings associated with compulsory microchipping. The report estimates that the cost-savings associated with having to deal with fewer stray dogs to be between £2.39 million and £2.61 million per annum, this is based on an

² Report on the Cost Impacts of Compulsory Microchipping of Dogs in Wales, November 2011

assumption of 90% compliance with the Regulations. A breakdown of these cost-savings is presented below.

| Cost-saving | £ per annum |
|--|------------------------------|
| Reduced local authority kennelling costs for keeping strays statutory 7 days | 348,500 |
| Reduced euthanasia costs | 19,680 |
| Reduced animal welfare organisation cost for kennelling unreturned dogs | 1,900,000 |
| Total cost-savings | 2,268,180 |
| Additional income from administration fee from owners of stray dogs* | 124,475 - 348,530 |
| Total | 2,392,655 – 2,616,710 |

*This represents a cost to the relevant dog owner.

A number of Local Authorities in England and Wales already require the compulsory microchipping of dogs for tenants in social housing. The Dogs Trust has provided information on a report provided by Housing Hartlepool, which recorded a drop from 76 dog-related complaints to 26 in the space of one year (January 2011 – February 2012) when this initiative was introduced. They also identified a reduction in the issuing of Fixed Penalty Notices for dog fouling for during the same period, from 76 to 47. In addition, the number of stray dogs collected by Hartlepool Borough Council and subsequently returned to their owners rose from 23% to 41.2% (Dog Related Issues Jan 2011- Feb 2012 Report, Housing Hartlepool).

Dog owners

Dog owners will benefit from an increased probability of being reunited with a lost dog and a reduction in the associated distress. There is evidence from abroad which suggests that countries with compulsory/increased microchipping have higher levels of owner identification of strays. In Sweden where microchipping is compulsory, over 90% of stray dogs are reunited with their owners within 24 hours of being collected by the authorities.³ Furthermore, a US research study by Lord et al (2009) found that dogs with microchips were likely to be relocated with their owners; they concluded that 'the high rate for return of microchipped dogs supported microchipping as a valuable permanent pet identification modality'.⁴

³ Tasker L (2008), Stray Animal Control Practices (Europe), WSPA/RSPCA International

⁴ Lord L K, Ingwersen W, Gray J L, Wintz D J, (2009), Characterization of animals with microchips entering animal shelters, *J Am Vet Med Assoc*, **235**(2):160-167

Dog welfare

Increasing the traceability of breeders and owners is expected to result in a number of animal welfare benefits:

- improved traceability of dog owners may act as a deterrent to irresponsible dog ownership and may assist enforcement authorities in the prosecution of cruel and irresponsible owners;
- in cases where welfare or medical problems arise which indicate that the source of the problem was improper breeding practices or a poor breeding environment etc., it will be possible to identify the breeder and take the necessary action to ensure there is no future reoccurrence;
- a good record of dog ownership will enable veterinarians to contact owners about health schemes;

Summary of the preferred option

This Regulatory Impact Assessment makes the case for introducing compulsory microchipping for all dogs resident in Wales. Taking into consideration the results of the public consultation and the costs and benefits of each option, it is estimated that “Option 2: Microchip all dogs before the coming into force date of 1st March 2015, and all puppies born after this date by the time they are 56 days old” is the most appropriate way forward.

This option has clear welfare benefits, namely reinforcing an owner’s responsibilities under the Animal Welfare Act 2006. The clear benefit of permanent identification will assist in discovering and evidencing repeat offenders who allow their dogs to stray or cause nuisance. It would also allow vets to contact owners of stray dogs in situations where emergency treatment is required.

The preferred option also generates cost-savings for Local Authorities and animal welfare organisations by reducing the cost associated with dealing with stray dogs. As noted above, this cost-savings has been estimated to be between £2.39 million and £2.62 million per annum.

The greater traceability would assist enforcement officers greatly in situations such as dog theft, animal cruelty or if a puppy sold by a breeder has health problems as a direct result of the conditions in which it was raised. It would also assist in situations where the true ownership of a dog needed to be proven.

Owners and keepers of dogs were notified on 5th March 2014 that compulsory microchipping would come into force on 1st March 2015, allowing a year for them to get their dogs microchipped.

Competition Assessment

A competition filter can be found at Appendix A.

Post implementation review

It would be appropriate to consider starting a review of the legislation three years after the legislation is made and brought into effect.

APPENDIX A

The Competition Assessment

The competition filter test

The competition filter test is set out below, together with points raised.

| The competition filter test | |
|--|---------------------|
| Question | Answer yes or no |
| Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share? | Yes |
| Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share? | Yes |
| Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share? | Yes |
| Q4: Would the costs of the regulation affect some firms substantially more than others? | No |
| Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation? | Yes |
| Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet? | No |
| Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet? | No |
| Q8: Is the sector characterised by rapid technological change? | No |
| Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products? | No |

Questions 1 to 3: the market

The market is dominated by four large database operators with an unknown quantity of smaller organisations. No data is held by the Welsh Government on number of microchip manufacturers, or Suitably Qualified Persons currently offering microchip implantation services

Question 4: substantially different effect on businesses/organisation

No significant costs identified.

Question 5: changes to market structure

As demand grows, more individuals and businesses may choose to train to become implanters, or set up a database, to provide this required service.

Questions 6 and 7: penalising new suppliers

The Regulations will not come into force until 1st March 2015, despite being debated in Plenary on 15th July. This allows sufficient time for keepers to get their dogs microchipped, and for Local Authorities and those involved in the microchipping industry to consider these Regulations further.

Whilst there are specific requirements set out for database operators, these are not thought to be any different to data recorded by current databases.

Question 8: technological change

A no answer is given. Change in technology can take some time to evolve through research and development.

Question 9: restrictions on suppliers

Whilst we do not agree that the proposals will restrict trade in any way, it is possible that introducing a compulsory requirement may cause existing prices to rise.