

Owners of registered dogs must also comply with the following regulations:

- You shall not abandon your dog or allow it to stray - your dog must be kept in secure conditions at home so it cannot escape.
- You are not allowed to sell or exchange your dog. You cannot give it to anyone nor advertise it for sale or as a gift.
- The Index of Exempted Dogs must be notified if you move address or if your dog is kept at a different address for longer than 30 days.
- The Exemption Certificate and Insurance Certificate should be kept safe in case you need to produce them. A Police Officer or Local Authority officer can ask you to show your certificate or produce it within five days and immediately display the dogs tattoo and allow its chip to be read. The Index of Exempted Dogs will need to be notified of the death or export of your dog.

Restriction of further breeds/types of dog:

Can other dogs be added to Section One?

Owners often ask whether another breed is likely to be added to Section One of the DDA. Originally when the Act was first passed, two types of dog were named — the 'type of dog known as a pit bull terrier' and the 'type of dog known as a Japanese tosa'.

Section 1(1)(c) gives the Secretary of State the power to add additional types of dog to the full provisions of Section 1 (which include an outright ban) if the Secretary of State believes that such dogs have been "bred for fighting" or "have the characteristics of a type bred for that purpose".

Powers under this section were exercised in August 1991 when two types of dog were added to Section 1;

- the 'type known as the Dogo Argentino' and
- the 'type known as the Fila Brasileiro'

This was the first order of its kind, known as the Dangerous Dogs (Designated Types) Order 1991 and no further orders have been issued to date.

Section 2(1) gives powers to the Secretary of State to make an order requiring that any type of dog, believed to present a "serious danger to the public" shall be: Muzzled and kept on a lead when in a public place and/or shall not be abandoned or allowed to stray. Before making an order under this section, the Secretary of State shall consult with "such persons or bodies as appear to him to have knowledge or experience, including a body concerned with animal welfare, a body concerned with veterinary science and practice and a body concerned with breeds of dogs".

It is important to note that an order can be made by the Secretary of State; he/she needs to 'consult' but the legislation can be extended to cover other breeds without the usual consultation stage and voting process in Parliament.

For further advice – please contact us:

Email: advice@endangerreddogs.com

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Dangerous Dogs Act 1991

Prohibited Dogs - Information Guide

Prohibited Dogs:

The legislation was introduced in August 1991 following a spate of highly publicised dog attacks. The Dangerous Dogs Act (DDA) 1991 is breed specific legislation (BSL) – Section One of the legislation refers to four types of dog:

- the Pit Bull Terrier
- the Japanese Tosa
- the Dogo Argentino
- the Fila Brasileiro

It is illegal to keep any of the above types of dog, unless the dog is registered on the Index of Exempted Dogs and certain conditions of exemption are strictly adhered to. It is a criminal offence for a dog owner to be in possession or custody of any of the listed dogs, unless a certificate of exemption is in force. The dog doesn't need to have 'done anything' - dogs are banned based on their physical appearance.

When the law was originally introduced – dog owners had to fulfil certain requirements within a very short space of time in order to bring their dog within the law. There was a deadline given after which time the Index closed and those dogs not fully exempted became illegal.

There were originally 8,200 dogs notified to the Index of Exempted Dogs, by the end of 1992 a total of 4,821 dogs were on the register, this figure had dropped to 2,841 when the Act was amended in 1997. The Index of Exempted Dogs closed in 1991-it is not possible for a dog's owner to take their own steps and register their dog, in order to bring it within the law. The only way a dog can go on the Register is via Court order. There is no provision for an owner to make an application to a Court themselves.

Identification:

With no known cases involving three of the prohibited breeds, the Act is in reality aimed at the 'type of dog known as a pit bull terrier'.

The Act doesn't refer to the 'American Pit Bull Terrier' and uses the word 'type', the APBT is a breed of dog not recognised by the Government.

What wasn't initially explained was how the word 'type' should be interpreted. On followed several Home Office issued guidelines and complete confusion accompanied by frequent lengthy legal hearings debating the finer points of what was and what was not a dog of the 'type'.

In 1993 the Queen's Bench Divisional Court determined the legal definition of the word 'type'. In the landmark case of Dunne and Brock Their Lordships, Justice Glidewell and Justice Cresswell stated: ***"That a dog of the type known as a Pit Bull Terrier is an animal approximately amounting to, near to, having a substantial number of characteristics of the Pit Bull Terrier"***.

The floodgates were open; any dog, regardless of its parentage, could be of the 'type', behaviour was relevant, but not conclusive. Countless pet dogs have suffered and lost their lives due to the draconian nature of the law, a law in the words of one senior Judge "designed to promote death". The American Dog Breeders Association's (ADBA) breed standard was and still is often used as the 'yardstick' for identification. DEFRA has a list of characteristics for each of the banned types, this information is issued on their web site.

Burden of Proof:

Under Section One the Act, the 'burden of proof' is reversed - this means that it is up to the dog's owner to prove that their dog is not of the 'type', rather than the prosecution prove that it is.

It had been challenged in the case of Bates at the High Court and with the European Commission, but upheld. What this means for the ordinary pet owner, is that an accusation that a dog is a prohibited type of dog needs only to be made, it is then up to the dog's owner to prove otherwise.

Making it even more difficult for pet dog owners in a court of law to prove their innocence when charged with a criminal offence.

DDA Amendment of 1997:

The law was altered in June 1997. Campaigners and welfare groups had, for over five years, kept up the pressure and highlighted the injustices of the legislation.

The Dangerous Dogs Act Reform Group was set up by the Late Lord Houghton, an ardent opponent of the DDA, it was supported by the main canine welfare groups, EDDR was an active member, attending meetings at the House of Commons, before it disbanded in 2000. The Amendment was crafted by DDA expert Trevor Cooper, a solicitor who has vast experience of DDA cases.

Prior to the Amendment, any dog found guilty of being a pit bull type, received the death sentence—there was no other option than for the courts to order destruction, any dog found guilty of an aggravated offence under section three (applies to all dogs) also received a mandatory death penalty.

The Amendment returned discretionary powers to the courts – which means that if a dog is now found guilty of being of the type, the court can order that the dog be registered onto the Index of Exempted Dogs, providing that the court is satisfied the dog does not constitute a danger to public safety.

The 'burden of proof' still remains reversed under Section One of the Act.

The number of prosecutions under this Act had drastically reduced over the years following the Amendment but have increased in some areas, notably Merseyside (following the tragic death of a child in Merseyside, January 2007) and London.

Section 4-b of the DDA (Amendment) Act 1997 refers to 'destruction order otherwise than on conviction'. An application is made to the Court for a destruction order, where it appears that no person has been, or is to be, prosecuted for an offence, either because the owner cannot be found or for some other reason. The Court may order the destruction of the dog – but nothing shall require the dog to be destroyed if the court is satisfied 'that the dog would not constitute a danger to public safety'. The case is heard before the Magistrates Court although it is a civil proceeding. Legal aid is not likely, so owners need to either pay for their own legal defence or represent themselves—it is important to take advice before attending court.

Powers of Seizure:

The Police have the power to seize a dog which they feel is a prohibited type, the dog doesn't need to have 'done anything' just look the wrong shape and size.

If the dog is in a public place it can be seized without a warrant by the Police or officers authorised by the local authority (e.g., Dog Warden). A warrant is needed to seize a dog from private premises – your home.

One a dog is seized – it will not be destroyed as an illegal dog – unless you, the owner, give your consent or a court of law orders it destroyed.

The important thing to remember, for any dog owner who finds themselves in this position, is that you do not have to sign over ownership of your dog – if ownership is relinquished the dog may be destroyed.

You do not have to give permission for your dog to be destroyed – obtain legal advice immediately and contact us for advice.

A seized dog will be detained until it is examined by an expert used by the authorities, the results of that examination will determine whether the dog is returned without charge, or whether the case is submitted to the CPS.

Dogs will be detained in kennels, their location is usually not given to the owner and access is often denied, unless the dog is being seen for the purposes of examination.

Registered Dogs:

Dogs registered either back in 1991, or since 1997 via court order have to comply with the following requirements (within a designated time) in order to obtain a certification of exemption:

*** Neutering * ID chip * tattoo inside rear leg * insurance cover * registration fee**

Owners of registered dogs need to be fully aware of their obligations according to the law—the legality of their pet will depend on these requirements being strictly adhered to.

Compulsory muzzling and leash in public places:

Registered dogs have to be muzzled and held on a lead by someone over the age of 16yrs at **all** times when in a public place (which includes inside your vehicle when it is itself in a public place e.g., on the road). A registered dog's muzzle cannot be removed at any time when in a public place, if it is - a criminal offence will have been committed. Owners cannot remove the muzzle to allow their dog to drink or eat if in a public place. Even if a registered dog is being sick and chocking – there is no defence for removing its muzzle.

For this reason, owners of registered dogs have to take special care to safeguard their dogs welfare; especially where dogs may be ill, have a medical condition e.g., epilepsy, or in the case of older dogs and during hot weather.

Insurance cover:

The **compulsory insurance** is renewable each year and must be kept up to date in order to comply with the law. It currently costs £42 pa and cover is provided by Pet Plan via the Index of Exempted Dogs.

Health cover is difficult, if not impossible to find, EDDR has contacted several insurance companies recently and none have provided health cover for registered dogs - if you know of an insurance company which does offer cover for registered dogs—please contact us.

