

The Clean Neighbourhoods and Environment Act 2005

The Dog Control Orders (Prescribed Offences and Penalties, etc) Regulations 2006 (S.I 2006/1059)

The Fouling of Land by Dogs (Brighton & Hove) Order 2009

Brighton & Hove City Council (the Council) hereby makes the following Order:-

1. This Order comes into force on 1st January 2009.
2. This Order applies to the land specified in Schedule 1.

Offence

- 3.(1) If a dog defecates at any time on land to which this Order applies and a person who is in charge of the dog at that time fails to remove the faeces from the land forthwith, that person shall be guilty of an offence unless—
 - (a) he has a reasonable excuse for failing to do so; or
 - (b) the owner, occupier or other person or authority having control of the land has consented (generally or specifically) to his failing to do so.
- (2) Nothing in this article applies to a person who—
 - (a) is registered as a blind person in a register compiled under section 29 of the National Assistance Act 1948; or
 - (b) has a disability which affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects, in respect of a dog trained by a prescribed charity and upon which he relies for assistance.
- (3) For the purposes of this article—
 - (a) a person who habitually has a dog in his possession shall be taken to be in charge of the dog at any time unless at that time some other person is in charge of the dog;
 - (b) placing the faeces in a receptacle on the land which is provided for the purpose, or for the disposal of waste, shall be a sufficient removal from the land;

- (c) being unaware of the defecation (whether by reason of not being in the vicinity or otherwise), or not having a device for or other suitable means of removing the faeces shall not be a reasonable excuse for failing to remove the faeces;
- (d) each of the following is a "prescribed charity"—
 - (i) Dogs for the Disabled (registered charity number 700454);
 - (ii) Support Dogs (registered charity number 1088281);
 - (iii) Canine Partners for Independence (registered charity number 803680).

Penalty

4. A person who is guilty of an offence under article 3 shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

THE COMMON SEAL OF BRIGHTON & HOVE)
COUNCIL was affixed hereto this)
 in the presence of:-)

Authorised Officer

SCHEDULE 1

Description of land, or lands, to which the Order applies

- 1. Subject to the exception in paragraph 2 below, all land which is in the administrative area of the Council and which is:-
 - a. Open to the air (which includes land that is covered but open to the air on at least one side) and;
 - b. To which the public are entitled or permitted to have access (with or without payment).
- 2. Excepted from the description in paragraph 1 above is land that is used for agriculture¹, woodland and Forestry Commission Land².

¹ 'agriculture' includes horticulture, fruit growing, seed growing, dairy farming, and livestock breeding, and keeping, and the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds.

² 'Forestry Commission Land' is land that is placed at the disposal of the Forestry Commissioners under section 39(1) of the Forestry Act 1967.

