



Control of Dogs (Scotland) Act 2010

2010 asp 9

Service and content of dog control notice

1 Serving of dog control notice

- (1) If—
 - (a) it comes to the attention of an authorised officer that a dog has, on at least one occasion after this section has come into force, been out of control, the officer may serve on the proper person a written notice (to be known as a “dog control notice”) requiring the person to bring and keep the dog under control,
 - (b) a court makes a requirement under section 5(4) or a case is remitted under section 9(3), an authorised officer is to serve such a notice (or as the case may be a further such notice) on the proper person.
- (2) It is immaterial, for the purposes of subsection (1)(a), that on the occasion in question (or as the case may be on either, any or all of those occasions) some person other than the proper person was in charge of the dog.
- (3) For the purposes of this Act, a dog is out of control if—
 - (a) it is not being kept under control effectively and consistently (by whatever means) by the proper person,
 - (b) its behaviour gives rise to—
 - (i) alarm, or
 - (ii) apprehensiveness,on the part of any individual, and
 - (c) the individual's alarm or apprehensiveness is, in all the circumstances, reasonable.
- (4) The apprehensiveness mentioned in subsection (3)(b)(ii) may be as to (any or all)—
 - (a) the individual's own safety,
 - (b) the safety of some other person, or
 - (c) the safety of an animal other than the dog in question.
- (5) In this Act, references to the “proper person”, in relation to any dog, are to—
 - (a) its owner (or, if its owner has not attained the age of 16 years, a person who has parental responsibilities in relation to its owner), or

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- (b) if either—
 - (i) it is not apparent, after reasonable inquiry, to the authorised officer who the dog's owner (or the person having parental responsibilities in relation to its owner) is, or
 - (ii) it appears to the authorised officer that the circumstances are such that it would not be reasonable to serve a dog control notice on the dog's owner (or on the person having such parental responsibilities),
 any person who has attained the age of 16 years and who appears to the authorised officer to have day-to-day charge of the dog.
- (6) In this Act references to an “authorised officer” are to an officer appointed for the purposes of this Act by a local authority; and each local authority must appoint at least one such officer.
- (7) In appointing any person to be such an officer a local authority are to satisfy themselves that the person is skilled in the control of dogs and has the capacity to instruct and advise others in matters relating to the control of dogs.
- (8) A dog control notice is not to relate to more than one dog.

2 Content of dog control notice

- (1) In addition to the requirement mentioned in subsection (1) of section 1, a dog control notice is to require—
 - (a) that the proper person (in this and the following provisions of this Act referred to as “P”)—
 - (i) comply with the terms of the notice to the satisfaction of the local authority which has the duty of monitoring its effectiveness and enforcing it, and
 - (ii) on changing name or address, notify the authority of the change in question,
 - (b) that, within 14 days after the effective date, either—
 - (i) an electronic transponder be duly implanted in the dog as a means of identifying the animal and P, or
 - (ii) P satisfy the local authority (by providing such information to them as they may require) that such a transponder was duly implanted in the dog before the notice was served and already constitutes a means of identifying the animal and P,
 - (c) that, on an electronic transponder being implanted by virtue of paragraph (b) (i), P inform the local authority that it has been implanted and by whom, and
 - (d) that P or an entrusted person be present and in charge of the dog whenever it is in a place to which the public have access.
- (2) In paragraph (b) of subsection (1), the references to an electronic transponder being duly implanted are to its being implanted by a person who in the opinion of the local authority is appropriately qualified to carry out such an implant.
- (3) In paragraph (d) of subsection (1), the reference to an entrusted person is to a person who—
 - (a) has attained the age of 16 years,
 - (b) has for the time being been entrusted by P with charge of the dog,

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- (c) has been made familiar by P with the requirements of the dog control notice, and
 - (d) is willing and able to comply with those requirements.
- (4) A dog control notice may specify other steps P is required to take, being steps which in the opinion of the authorised officer—
 - (a) must be taken if the dog is to be brought and kept under control, or
 - (b) would be conducive to its being brought and kept under control;and in specifying any such step the notice may specify a date by which it is to be taken.
- (5) Subsection (4) is subject to sections 5(6) and 9(4).
- (6) Steps specified by virtue of subsection (4) (or of subsection (6) of section 5 or subsection (4) of section 9) may, without prejudice to the generality of the subsection in question, include any or all of the following—
 - (a) muzzling the dog whenever it is in a place to which the public have access,
 - (b) keeping the dog on a lead whenever it is in such a place,
 - (c) if the dog is male, neutering it,
 - (d) keeping the dog away from a place, or category of places, specified in the notice, and
 - (e) P, with the dog, attending and completing a course of training in the control of dogs (being a course which may, but need not, be specified in the notice).
- (7) The Scottish Ministers may by order—
 - (a) amend any paragraph of subsection (1) or (6),
 - (b) amend subsection (1) by adding a further requirement, or
 - (c) amend subsection (6) by adding a further example of a step which might be specified in a dog control notice.
- (8) In paragraph (a) of subsection (7)—
 - (a) reference to “any paragraph of subsection (1) or (6)” includes reference to any paragraph added by virtue of paragraph (b) or (c) of subsection (7), and
 - (b) the power to amend includes, but only in the case of a paragraph so added, the power to omit.
- (9) A dog control notice must include—
 - (a) the date on which it is served and a statement that the notice comes into effect on that date,
 - (b) the name and address of P,
 - (c) a description of, and information regarding, the dog,
 - (d) the reason for the authorised officer concluding that the dog has been out of control (including a description of the circumstances on the basis of which the officer has come to that conclusion), and
 - (e) the information that—
 - (i) section 3 of this Act provides for an appeal against a dog control notice or against a term of such a notice,
 - (ii) section 7 of this Act provides for the discharge or variation of a dog control notice,
 - (iii) section 9 of this Act provides for any dog which continues to be out of control, and

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- (iv) it is an offence under section 5 of this Act to fail to comply with a dog control notice.
- (10) A dog control notice may include such other matter as the local authority think fit provided the inclusion is consistent with any order under subsection (11).
- (11) The Scottish Ministers may by order prescribe a form for a dog control notice.
- (12) Different provision may be made under subsection (11) for different cases or for different classes of case.
- (13) The date mentioned in subsection (9)(a) is referred to in this Act as the “effective date”.

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