

Draft Order laid before the Scottish Parliament under section 17(2) of the Control of Dogs (Scotland) Act 2010 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2021 No.

DOGS

The Scottish Dog Control Database Order 2021

Made - - - - 2021
Coming into force - - 31st December 2021

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 8(1) and 17(1)(b) of the Control of Dogs (Scotland) Act 2010(1) and all other powers enabling them to do so.

In accordance with section 17(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

In accordance with section 8(1) of that Act, the Scottish Ministers have consulted with local authorities in Scotland and with such other persons as they consider appropriate.

Citation and commencement

1. This Order may be cited as the Scottish Dog Control Database Order 2021 and comes into force on 31 December 2021.

Interpretation

2. In this Order—

“constable” and “member of the police staff” have the meanings given by section 99(1) of the Police and Fire Reform (Scotland) Act 2012(2),

“database” means the Scottish dog control database established by article 3(1),

“the Act” means the Control of Dogs (Scotland) Act 2010,

“the Improvement Service” means the company of that name limited by guarantee and incorporated in Scotland with registration number SC287978.

(1) 2010 asp 9.

(2) 2012 asp 8, to which there are amendments not relevant to this Order.

Scottish dog control database

3.—(1) The database of dog control notices to be created by the Improvement Service is established as the Scottish dog control database.

- (2) The Improvement Service is appointed as the database operator.
- (3) The database operator is to—
 - (a) maintain the database,
 - (b) control access to the database, and
 - (c) supervise and assist in the making, alteration and deletion of entries by local authorities in the database to the extent that it considers appropriate.
- (4) Entries in the database may only be made, altered or deleted by—
 - (a) an employee of a local authority authorised by that authority for that purpose and permitted by the database operator to do so,
 - (b) an employee of the database operator or a person acting on its behalf.
- (5) The database operator may permit the database to be viewed only by—
 - (a) an employee of a local authority authorised by that authority for that purpose,
 - (b) a constable,
 - (c) a member of the police staff,
 - (d) an employee of the database operator or a person acting on its behalf.

Duty to ensure inclusion of information in database

4.—(1) A local authority is to ensure that, where a dog control notice is or has been served by it, the following information relating to that notice is entered in the database as soon as reasonably practicable—

- (a) the reference number of the dog control notice,
- (b) the name and contact details of the authorised officer responsible for the notice, and the name of the local authority,
- (c) the date on which the notice was served,
- (d) the means by which the notice was served on the proper person,
- (e) the name and contact details of any person who witnessed the service of the notice,
- (f) the name of the proper person,
- (g) that person's date of birth,
- (h) that person's address, including the postcode and local authority area,
- (i) the name of the dog to which the notice relates,
- (j) a description of the dog, including its sex and breed,
- (k) the code number of any electronic transponder implanted in the dog,
- (l) the name and address (including the postcode and local authority area) of the person who for the time being has day-to-day charge of the dog, if not the proper person,
- (m) the reasons why the dog was considered to be out of control at the time the notice was served,
- (n) any steps required by the notice to be taken by the proper person for the purposes of bringing and keeping the dog under control, and

- (o) the reference number of any other dog control notice appearing on the database and served on the same proper person.
- (2) Paragraph (1) applies to a dog control notice served before the coming into force of this Order, unless the notice was discharged—
 - (a) under section 3 of the Act before this Order comes into force, or
 - (b) under section 5, 6 or 7 of the Act more than two years before this Order comes into force.
- (3) A local authority is to ensure that, where a dog control notice has been served by it—
 - (a) any change to the information entered in the database under paragraph (1) in relation to that notice, or any new information of a type listed in that paragraph relating to that notice, is entered in the database as soon as reasonably practicable,
 - (b) the following information is entered in the database as soon as reasonably practicable—
 - (i) if the notice or a term of the notice is suspended under section 3 of the Act, the fact that this has occurred, the nature of any term suspended and the date on which the suspension began,
 - (ii) if the notice has been varied, or a term of the notice has been varied or discharged under section 3, 6 or 7 of the Act, the fact that this has occurred, together with the date and the nature of the variation or a description of the term discharged,
 - (iii) if the notice has been discharged under section 5, 6 or 7 of the Act, the fact that this has occurred and the date of discharge.
- (4) A local authority is not required by paragraphs (1) to (3) to ensure that the database includes any information—
 - (a) of which it is not yet aware, or
 - (b) which none of its employees are yet permitted by the database operator to enter in the database,

and the local authority is to ensure that any such information is entered in the database as soon as reasonably practicable after it becomes aware of the information, or after any of its employees are so permitted, as the case may be, unless by that time the information would fall to be removed from the database under article 5.

Removal of information from database

5.—(1) Where a dog control notice has been discharged under section 3 of the Act, the local authority which served it is to ensure that all information relating to it is removed from the database as soon as reasonably practicable after becoming aware of the decision to discharge it.

(2) Where a dog control notice has been discharged under section 5, 6 or 7 of the Act, the local authority which served it is to ensure that all information relating to it is removed from the database no later than two years following the date of the discharge.

Information disclosure and sharing

6.—(1) A local authority may disclose information to the database operator for the purpose of inclusion of that information in the database.

(2) A local authority which is responsible for the entry of information in the database may share that information with—

- (a) another local authority,
- (b) a constable,
- (c) a member of the police staff,

(d) the Scottish Ministers,
for the purposes of the Act.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the establishment of the Scottish dog control database which is to be created by the Improvement Service under section 8(1)(a) and 8(2) of the Control of Dogs (Scotland) Act 2010 (“the Act”). The Improvement Service is a company limited by guarantee whose members are Scottish local authorities, the Convention of Scottish Local Authorities (COSLA) and the Society of Local Authority Chief Executives and Senior Managers (SOLACE). It acts as the national improvement organisation for Local Government in Scotland.

The Order appoints the Improvement Service as the database operator under section 8(1)(b) of the Act, and confers functions on the database operator in relation to the database. It limits the categories of persons who may be permitted by the database operator to make, alter or delete entries in the database or to view the database. A local authority which has served a dog control notice (a “notice”) is placed under duties to ensure that information of a type specified in the Order is included in the database. This applies to information which it holds relating to notices served before the coming into force of this Order, although under articles 4(2) and 5 information relating to a notice is not to be entered/retained on the database more than two years after the discharge of the notice. Where the notice is appealed under section 3 of the Act and is discharged on appeal, information relating to that notice if entered in the database is to be removed as soon as practicable under article 5(1).

Article 6 enables a local authority to disclose information to the database operator, and to share information entered in the database with other local authorities, the police and the Scottish Ministers.

A data protection impact assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies can be obtained from Adam Sinclair, GW.14, St Andrew’s House, Regent Road, Edinburgh EH1 3DG, e-mail adam.sinclair@gov.scot.