



Protection of Wild Mammals (Scotland) Act 2002

2002 asp 6

9 Disqualification orders

- (1) The court convicting a person of an offence under section 1 may, in addition to dealing with the offender in any other way, make either or both of the following orders (“disqualification orders”)—
 - (a) an order for the care or disposal of a dog which was in the offender’s custody when the offence was committed or which has been in the offender’s custody at any time since then;
 - (b) an order disqualifying the offender, for such period as it thinks fit, from having custody of any dog.
- (2) Where the court makes an order under subsection (1)(a) above, it may—
 - (a) require any person who has custody of the dog to deliver it up to a specified person;
 - (b) require the offender to pay specified amounts to specified persons for the care of the dog from the time it is delivered up (or detained under section 7(1)(d)) until permanent arrangements are made for its care or disposal.
- (3) A disqualification order shall not deprive a dog’s owner of custody of that dog where that dog was used by another person in the commission of an offence under section 1, unless the owner knowingly permitted the use of that dog contrary to that section.
- (4) A person who—
 - (a) has custody of a dog in contravention of a disqualification order; or
 - (b) fails to comply with a requirement imposed on that person under subsection (2),commits an offence.
- (5) A dog shall not be disposed of pursuant to an order under subsection (1)(a) above—
 - (a) until the end of the period within which notice of appeal to the court against the order can be given; and
 - (b) if notice of appeal is given in that period, until the appeal is determined or withdrawn,

Status: This is the original version (as it was originally enacted).

unless the owner of the dog gives notice to the court which made the order of the owner's intention not to appeal against it.

- (6) A person against whom an order under subsection (1)(b) above has been made may, no earlier than one year after the date of the order, apply to the court which made the order for a direction ending the disqualification from such date as the court thinks appropriate; and if the application is refused, no further application in relation to that order may be made earlier than one year after the date of the refusal.
- (7) In considering an application under subsection (6), the court must take account of all the circumstances including the applicant's character and the applicant's conduct since the order was made.
- (8) If a disqualification order imposes a requirement in relation to a dog not owned by the offender, the owner may appeal to the High Court against that requirement.
- (9) An appeal under subsection (8) is competent only if lodged within 7 days of the date of the order (or such longer period as the High Court thinks just, taking particular account of the date on which the order came to the owner's attention).