

CONTROL OF DOGS (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 5: Failure to comply with dog control notice

35. **Section 5(1)** makes it a criminal offence to fail to comply with a dog control notice. Proceedings are by way of summary procedure with the proper person on conviction liable to a fine not exceeding level 3 on the standard scale (currently £1,000).
36. On conviction, subsection (2)(a) gives the court power to issue a disqualification order banning P from owning or keeping a dog for such a period of time as the court sees fit.
37. Subsection (2)(b) allows the court, on conviction, to order the destruction of the dog if it considers it is dangerous.
38. Under subsection (3) the court is also given the power to discharge the dog control notice, whether or not the proper person is convicted. If it does discharge the notice, and the dog is not destroyed, it can require the local authority under subsection (4) to serve a further notice and that it include such additional steps it considers appropriate to bring and keep the dog under control. Subsection (6) makes it clear that these steps replace any which could be specified by the authorised officer under section 2(4).
39. Subsection (7) provides that where P is convicted, a disqualification order or destruction order under subsection (2) or against any further control notice imposed under subsection (4) will be treated as a sentence under the Criminal Procedure (Scotland) Act 1995 for the purposes of making an appeal. Such appeals are made to the High Court of Justiciary.
40. Where P is not convicted, subsection (8) provides that an appeal against any notice or term of notice required under subsection (4) or (6) is made to the High Court of Justiciary.