

DOGS (PROTECTION OF LIVESTOCK) (AMENDMENT) (SCOTLAND) ACT 2021

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 3 – Powers to seize etc. dog suspected of attacking or worrying livestock

18. Section 3 amends section 2 of the 1953 Act. Section 2 of the 1953 Act sets out how the offence is to be enforced.
19. Section 2(2) of the 1953 Act allows a police officer to seize and detain a dog that the officer believes has been worrying livestock on agricultural land but only if the dog is found on the land in question and no-one is present who admits to being its owner or in charge of it, and only in order to ascertain who the owner is. Section 2(3) of the 1953 Act applies section 3 of the Dogs Act 1906 to dogs seized and detained in this way. As a result, the seized dog must be kept by the police for at least seven days while efforts are made to identify the owner, the dog must be fed and maintained during that period, the owner may be required to pay the cost of its detention, and an unclaimed dog may be either sold or destroyed.
20. Section 3(2) amends section 2(2) of the 1953 Act, so that the power to seize and detain a dog in order to identify its owner is extended so that a dog can be seized from any land on which it is found, not just the agricultural land where the livestock attack or worrying took place (for example it could be on a grass verge nearby); but it does not allow a dog to be seized from within premises.
21. Section 3(3) inserts a new subsection (2A) into section 2 of the 1953 Act. This new subsection confers a new power to allow a dog suspected of attacking or worrying livestock on agricultural land to be seized and detained, so that the dog can be examined in order to identify and secure any evidence. As with subsection (2), this power covers situations where the dog is no longer on the land where the attack or worrying took place, but does not allow a dog to be seized from within premises.
22. Section 3(4) amends section 2(3) of the 1953 Act, which relates to the disposal of seized dogs in terms of section 3 of the Dogs Act 1906.
23. Section 3(4)(a) disapplies section 3(10) of the 1906 Act for the purposes of the 1953 Act. This is a technical change to reflect the fact that section 3(10) of the 1906 Act has already been repealed (and, in any case, never had any application in Scotland).
24. Section 3(4)(b) clarifies the circumstances in which section 3 of the 1906 Act applies, namely to cases where a dog is seized (by a police officer) under section 2(2) of the 1953 Act. This is a technical change to reflect that section 2(2) is no longer “the last preceding subsection”, now that 2(2A) has been inserted.
25. Section 3(4)(c) makes section 2(3) of the 1953 Act subject to new section 2(6) of that Act (inserted by section 3(5) – see paragraph 28 below).
26. Section 3(5) inserts new subsections (4) and (5) into section 2 of the 1953 Act.

*These notes relate to the Dogs (Protection of Livestock) (Amendment)
(Scotland) Act 2021 (asp 18) which received Royal Assent on 5 May 2021*

27. New subsection (4) applies section 3 of the 1906 Act to dogs seized (by a police officer) under the new section 2(2A) of the 1953 Act on a similar basis to how that section is applied to dogs seized (by a police officer) under section 2(2) of the 1953 Act – except that, in the case of a dog seized under section 2(2A), the owner cannot be required to pay the cost of its detention.
28. New subsection (5) imposes a presumption on the police when disposing of a dog unclaimed by its owner after seven days, to sell the dog rather than destroy it unless the dog is dangerous or selling it is impracticable.