



# Hunting with Dogs (Scotland) Act 2023

## 2023 asp 1

### PART 3

#### FURTHER PROVISION RELATING TO OFFENCES

##### *Enforcement*

#### 17 Search of a person without warrant

If a constable has reasonable grounds for suspecting that a person has committed or is committing an offence under this Act, the constable may—

- (a) search that person without warrant, and detain the person for such time as is reasonably required to permit the search to be carried out,
- (b) search or examine any thing found in the course of a search, if the constable has reasonable grounds for suspecting that evidence of the commission of the offence is to be found in or on that thing,
- (c) seize any thing found in the course of a search which may be relevant to the commission of the offence.

##### Commencement Information

- I1** S. 17 not in force at Royal Assent, see [s. 31\(2\)](#)  
**I2** S. 17 in force at 3.10.2023 by [S.S.I. 2023/262](#), [reg. 2](#)

#### 18 Powers of enforcement

The schedule makes further provision about the powers of constables for the purposes of and in connection with this Act.

##### Commencement Information

- I3** S. 18 not in force at Royal Assent, see [s. 31\(2\)](#)  
**I4** S. 18 in force at 3.10.2023 by [S.S.I. 2023/262](#), [reg. 2](#)

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## *Proceedings*

### 19 Time limit for summary proceedings

- (1) Proceedings for an offence under [section 2\(1\)](#) or [\(2\)](#) or [section 14\(1\)](#), [\(3\)](#) or [\(4\)](#) may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor’s knowledge.
- (2) But no such proceedings may be brought more than 3 years—
  - (a) after the commission of the offence, or
  - (b) in the case of an offence involving a continuous contravention, after the last date on which the offence was committed.
- (3) A certificate signed by or on behalf of the prosecutor which states the date on which evidence referred to in [subsection \(1\)](#) came to the prosecutor’s knowledge is conclusive evidence of that fact, and such a certificate which purports to be so signed is to be treated as being so signed unless the contrary is proved.

#### Commencement Information

- I5** S. 19 not in force at Royal Assent, see [s. 31\(2\)](#)  
**I6** S. 19 in force at 3.10.2023 by [S.S.I. 2023/262](#), [reg. 2](#)

### 20 Individual culpability where organisation commits an offence

- (1) This section applies where—
  - (a) an offence under this Act is committed by a relevant organisation, and
  - (b) the commission of the offence—
    - (i) involves consent or connivance on the part of a responsible individual, or
    - (ii) is attributable to neglect on the part of a responsible individual.
- (2) The responsible individual (as well as the relevant organisation) commits the offence.
- (3) For the purposes of this section—
 

“relevant organisation” means an organisation listed in the first column of the table in subsection (4),

“responsible individual” means, in relation to a relevant organisation—

  - (a) an individual falling within the corresponding entry in the second column of the table in subsection (4),
  - (b) an individual purporting to act in the capacity of an individual falling within the corresponding entry.
- (4) The table is as follows—

<i>Organisation</i>	<i>Individual</i>
Company as mentioned in section 1 of the Companies Act 2006	Director, manager, secretary or other similar officer, or, where the company’s affairs are managed by its members, member

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<i>Organisation</i>	<i>Individual</i>
Limited liability partnership	Member
Other partnership	Partner
Any other body or association	Individual who is concerned in the management or control of its affairs

#### Commencement Information

- I7** S. 20 not in force at Royal Assent, see [s. 31\(2\)](#)  
**I8** S. 20 in force at 3.10.2023 by [S.S.I. 2023/262](#), [reg. 2](#)

### *Court orders*

## **21 Deprivation orders**

- (1) Where a person is convicted of a relevant offence, the convicting court may make an order (in this Part referred to as a “deprivation order”) in respect of any dog or horse used in or present at the commission of the offence.
- (2) A deprivation order is an order—
  - (a) depriving a person of possession or ownership (or both) of a dog or horse, and
  - (b) for—
    - (i) the destruction,
    - (ii) the sale, or
    - (iii) another disposal,of the dog or horse.
- (3) The court may not make—
  - (a) a deprivation order which involves the destruction of a dog or horse unless it is satisfied, on evidence provided (orally or in writing) by a veterinary surgeon, that destruction would be in the interests of the dog or horse,
  - (b) any other deprivation order unless it has considered the need to ensure the welfare of the dog or horse.
- (4) Where the court decides not to make a deprivation order in relation to a relevant offence, it must state its reasons unless it makes a disqualification order under [section 22](#) in relation to the offence.
- (5) A deprivation order may be made in addition to, or instead of, any other penalty or order which may be imposed in relation to a relevant offence.
- (6) A deprivation order may make provision in respect of any dependent offspring of a dog or horse to which it applies.
- (7) A deprivation order may include—
  - (a) provision—
    - (i) appointing a person who is to secure that the order is carried out,
    - (ii) requiring any person possessing a dog or horse to which the order applies to give it up to a person appointed under [sub-paragraph \(i\)](#),

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- (b) provision authorising—
    - (i) a person appointed under [paragraph \(a\)\(i\)](#), and
    - (ii) any person acting on that person’s behalf,
 to enter any premises where a dog or horse to which the order applies is kept, for the purposes of securing that the order is carried out,
  - (c) such other provision as the court considers appropriate in connection with the order.
- (8) Provision under [subsection \(7\)\(c\)](#) may in particular—
- (a) require reimbursement of—
    - (i) any expenses reasonably incurred in carrying out the order,
    - (ii) if the dog or horse was seized by a constable under [paragraph 4\(b\)](#) or [5\(2\)\(b\)](#) of the schedule, any expenses reasonably incurred in relation to it since it was seized,
  - (b) relate to the retention of the proceeds of any sale.
- (9) Before making a deprivation order, the court must give the owner of the dog or horse concerned an opportunity to make representations unless it is not practicable for the court to do so.
- (10) In this section, “relevant offence” means—
- (a) an offence under [section 1\(1\)](#),
  - (b) an offence under [section 2\(2\)](#),
  - (c) an offence under [section 14\(1\)](#) or [\(4\)](#),
  - (d) an offence under [section 22\(10\)](#) committed by reason of owning or keeping a dog.

#### Commencement Information

- I9** S. 21 not in force at Royal Assent, see [s. 31\(2\)](#)  
**I10** S. 21 in force at 3.10.2023 by [S.S.I. 2023/262](#), [reg. 2](#)

## 22 Disqualification orders

- (1) Where a person is convicted of a relevant offence, the convicting court may make an order (in this Part referred to as a “disqualification order”) which imposes on the person one or more of the disqualifications specified in [subsection \(2\)](#).
- (2) Those are disqualification from—
- (a) owning or keeping a dog (or both),
  - (b) transporting a dog,
  - (c) working with or using a dog (or both),
  - (d) providing any service relating to dogs (including, in particular, for their care) which involves taking possession of a dog,
  - (e) taking possession of a dog for the purpose of an activity in respect of which a disqualification mentioned in paragraphs [\(a\)](#) to [\(d\)](#) is imposed,
  - (f) taking charge of a dog for any, or any other, purpose.

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- (3) For the purposes of subsections (1) and (2), disqualification in respect of an activity includes disqualification from any participation in the activity including in particular—
  - (a) making arrangements in connection with the activity,
  - (b) being party to arrangements under which the activity may be controlled or influenced,
  - (c) being concerned (so far as relating to the activity) in the management or control of a body whose business involves the activity.
- (4) However, disqualification by reference to subsection (2)(f) does not include disqualification from taking charge of a dog for so long as is necessary in the circumstances for the purpose of alleviating any suffering of the dog, if no alternative arrangements for its care are reasonably available.
- (5) Where the court decides—
  - (a) to make a disqualification order in relation to an offender’s first conviction for a relevant offence, or
  - (b) not to make a disqualification order in relation to a relevant offence,it must state its reasons.
- (6) A disqualification order may be made in addition to any other penalty or order which may be imposed in relation to a relevant offence.
- (7) A disqualification order which imposes disqualification from owning or keeping a dog may be framed so as to provide that the disqualification is from owning or keeping—
  - (a) more than a specified number of dogs,
  - (b) dogs of a specified kind.
- (8) A disqualification order—
  - (a) has effect for such period as may be specified in the order,
  - (b) may specify a period within which an application under section 24 for termination or variation of the order may not be made.
- (9) The court may suspend the operation of a disqualification order—
  - (a) for such period as it considers necessary for enabling arrangements to be made for the keeping of any dog to which the order applies,
  - (b) pending an appeal.
- (10) A person commits an offence if the person breaches a disqualification order.
- (11) A person who commits an offence under subsection (10) is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (12) If a disqualification order framed as described in subsection (7)(a) is breached, the breach is to be regarded as having occurred in relation to all of the dogs concerned (that is, without restriction by reference to the maximum number specified) for the purpose of—
  - (a) any proceedings for an offence under subsection (10),
  - (b) the making of—
    - (i) a deprivation order,
    - (ii) a seizure order under section 23.

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- (13) In this section, a “relevant offence” is—
- (a) an offence under [section 1\(1\)](#),
  - (b) an offence under [section 2\(2\)](#),
  - (c) an offence under [section 14\(1\)](#) or [\(4\)](#),
  - (d) an offence under [subsection \(10\)](#).

#### Commencement Information

- I11** S. 22 not in force at Royal Assent, see [s. 31\(2\)](#)  
**I12** S. 22 in force at 3.10.2023 by [S.S.I. 2023/262](#), [reg. 2](#)

### 23 Seizure orders where disqualification breached

- (1) Where the court is satisfied that a person who is subject to a disqualification order owns or keeps a dog in breach of the order, the court may make an order (in this Part referred to as a “seizure order”) in respect of any dog which the person owns or keeps in breach of the disqualification order.
- (2) A seizure order may be made—
  - (a) on summary application by a constable or prosecutor,
  - (b) even if proceedings have not been, or are not likely to be, taken against the person for an offence under [section 22\(10\)](#).
- (3) A seizure order is an order—
  - (a) depriving a person of possession or ownership (or both) of a dog, and
  - (b) for—
    - (i) the destruction,
    - (ii) the sale, or
    - (iii) another disposal,
 of the dog.
- (4) The court may not make—
  - (a) a seizure order which involves the destruction of a dog unless it is satisfied, on evidence provided (orally or in writing) by a veterinary surgeon, that destruction would be in the interests of the dog,
  - (b) any other seizure order unless it has considered the need to ensure the welfare of the dog.
- (5) A seizure order may include—
  - (a) provision—
    - (i) appointing a person who is to secure that the order is carried out,
    - (ii) requiring any person possessing a dog to which the order applies to give it up to a person appointed under [sub-paragraph \(i\)](#),
  - (b) provision authorising—
    - (i) a person appointed under [paragraph \(a\)\(i\)](#), and
    - (ii) any person acting on that person’s behalf,
 to enter any premises where a dog to which the order applies is kept, for the purposes of securing that the order is carried out,

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- (c) such other provision as the court considers appropriate in connection with the order.
- (6) Provision under [subsection \(5\)\(c\)](#) may in particular—
  - (a) require reimbursement of—
    - (i) any expenses reasonably incurred in carrying out the order,
    - (ii) if the dog was seized by a constable under [paragraph 4\(b\)](#) or [5\(2\)\(b\)](#) of the schedule, any expenses reasonably incurred in relation to it since it was seized,
  - (b) relate to the retention of the proceeds of any sale.
- (7) Before making a seizure order, the court must give the owner of the dog concerned an opportunity to make representations unless it is not practicable for the court to do so.
- (8) In determining whether or how to make a seizure order, the court must have regard to the desirability of—
  - (a) protecting the value of any dog to which the order applies, and
  - (b) avoiding increasing any expenses which a person may be required to reimburse.
- (9) When an application is made under [subsection \(2\)\(a\)](#), the court may make an order under this subsection (an “interim order”) containing such provision as the court considers appropriate in relation to the keeping of a dog until the application is finally determined.
- (10) Subsections [\(5\)](#), [\(6\)\(a\)](#) and [\(8\)](#) apply in relation to an interim order as they apply in relation to a seizure order.

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**Commencement Information**

**113** S. 23 not in force at Royal Assent, see [s. 31\(2\)](#)

**114** S. 23 in force at 3.10.2023 by [S.S.I. 2023/262](#), [reg. 2](#)

## 24 Termination or variation of disqualification

- (1) A person who is subject to a disqualification order may request the court which made the order to terminate or vary the order.
- (2) An application under [subsection \(1\)](#) may not be made—
  - (a) before the expiry of the period of one year beginning with the date on which the order was made,
  - (b) where there has been a previous application under that subsection in relation to the same order, before the expiry of the period of one year beginning with the date on which the previous application was determined, or
  - (c) within any period specified under—
    - (i) [section 22\(8\)\(b\)](#), or
    - (ii) [subsection \(5\)](#).
- (3) On an application under [subsection \(1\)](#), the court may—
  - (a) refuse the application,
  - (b) terminate the disqualification order, or

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- (c) vary the disqualification order so as to relax any disqualification imposed by it.
- (4) In considering the application, the court must have particular regard to—
  - (a) the nature of the offence in relation to which the disqualification order was made,
  - (b) the character of the applicant, and
  - (c) the applicant’s conduct since the order was made.
- (5) Where the court refuses an application made under [subsection \(1\)](#), the court may specify a period within which the applicant may not make a further application under that subsection in relation to the same order.

#### **Commencement Information**

**I15** S. 24 not in force at Royal Assent, see [s. 31\(2\)](#)

**I16** S. 24 in force at 3.10.2023 by [S.S.I. 2023/262](#), [reg. 2](#)

## **25 Appeals against orders**

- (1) Any deprivation order or disqualification order is, for the purposes of any appeal under the Criminal Procedure (Scotland) Act 1995, to be treated as a sentence.
- (2) Where a deprivation order is made, any person (apart from a person who may appeal against the order by virtue of [subsection \(1\)](#)) who has an interest in any dog or horse to which the order applies may appeal to the Sheriff Appeal Court against the order by the same procedure as applies under [subsection \(1\)](#) in relation to a deprivation order.
- (3) The disqualified person by reference to whom a seizure order is made, or any person (apart from that disqualified person) who entered the process prior to the making of the order, may appeal to the Sheriff Appeal Court against the order.
- (4) The operation of any deprivation order or seizure order is suspended until—
  - (a) any period for an appeal against the order has expired,
  - (b) the period for an appeal against the conviction on which the order depends has expired, and
  - (c) any appeal against the order or that conviction has been withdrawn or finally determined.
- (5) Where the operation of a deprivation order or seizure order is suspended under [subsection \(4\)](#), or such an order cannot be carried out because decree has not been extracted, the court which made the order may make an order under this subsection (an “interim order”) containing such provision as the court considers appropriate in relation to the keeping of a dog or horse for so long as the deprivation order or seizure order remains suspended or incapable of being carried out.
- (6) An interim order may in particular—
  - (a) make provision—
    - (i) appointing a person who is to secure that the interim order is carried out,



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- (ii) requiring any person possessing a dog or horse to which the interim order applies to give it up to a person appointed under [sub-paragraph \(i\)](#),
  - (b) make provision authorising—
    - (i) a person appointed under [paragraph \(a\)\(i\)](#), and
    - (ii) any person acting on that person’s behalf,to enter any premises where a dog or horse to which the interim order applies is kept, for the purposes of securing that the interim order is carried out,
  - (c) for reimbursement of—
    - (i) any expenses reasonably incurred in carrying out the interim order,
    - (ii) if the dog or horse was seized by a constable under [paragraph 4\(b\)](#) or [5\(2\)\(b\)](#) of the schedule, any expenses reasonably incurred in relation to it since it was seized.
- (7) In determining whether or how to make an interim order, the court must have regard to the desirability of—
- (a) protecting the value of any dog or horse to which the order applies, and
  - (b) avoiding increasing any expenses which a person may be required to reimburse.
- (8) Where the operation of a deprivation order is suspended under [subsection \(4\)](#), a person commits an offence if the person sells or otherwise parts with a dog or horse to which the order applies.
- (9) A person who commits an offence under [subsection \(8\)](#) is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).

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**Commencement Information**

**I17** S. 25 not in force at Royal Assent, see [s. 31\(2\)](#)

**I18** S. 25 in force at 3.10.2023 by [S.S.I. 2023/262](#), [reg. 2](#)

**Changes to legislation:**

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