



# Dogs (Protection of Livestock) (Amendment) (Scotland) Act 2021

2021 asp 18

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 24th March 2021 and received Royal Assent on 5th May 2021**

An Act of the Scottish Parliament to increase penalties and provide additional powers to investigate and enforce the offence of livestock worrying, and for connected purposes.

## **1 Offence under section 1 of the 1953 Act: name, definition and penalty**

- (1) The Dogs (Protection of Livestock) Act 1953 (“the 1953 Act”) is amended as follows.
- (2) The title of section 1 becomes “**Offence where dog attacks or worries livestock on agricultural land**”.
- (3) In that section—
  - (a) in subsection (1), after “a dog” insert “attacks or”,
  - (b) in subsection (2), paragraph (a) is repealed,
  - (c) in paragraph (b) of subsection (2A)—
    - (i) after “guide dog” insert “or other assistance dog”,
    - (ii) after “hunt” insert “, but only if and to the extent that the dog is performing the role in question”,
  - (d) in subsection (4)—
    - (i) before “worrying” insert “attacking or”,
    - (ii) before “worried” insert “attacked or”,
  - (e) in subsection (6), for paragraphs (a) and (b) substitute—
    - “(a) to imprisonment for a term not exceeding 12 months;
    - (b) to a fine not exceeding £40,000; or
    - (c) both.”.
- (4) In subsection (2) of section 2, before “worrying” insert “attacking or”.
- (5) The modification made by subsection (3)(e) applies only to offences committed on or after the date on which the modification comes into force.

## 2 Power to make order in respect of person convicted

(1) After section 1 of the 1953 Act, insert—

### **“1A Orders in respect of persons convicted of an offence under section 1**

- (1) Where a person (P) is convicted of an offence under section 1, the court may make an order—
    - (a) disqualifying P from owning or keeping a dog during such period as the court thinks fit,
    - (b) requiring P, during such period as the court thinks fit, to prevent any dog of which P has charge from going on to land which P knows, or reasonably ought to know, is agricultural land on which livestock is present or is likely to be present, or
    - (c) both.
  - (2) Where P is convicted of an offence under section 1, then for the purposes of any appeal under the Criminal Procedure (Scotland) Act 1995 (c.46) an order under subsection (1) is to be treated as a sentence.
  - (3) If P fails to comply with an order under subsection (1), P commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
  - (4) Subsection (5) applies where an order has been made under subsection (1) and at least one year has elapsed since the order was made.
  - (5) P may, in such manner as may be prescribed by rules of court, apply to the court which made the order for the order to be discharged in whole or in part, or otherwise varied.
  - (6) If the application in respect of an order is refused, in whole or in part—
    - (a) P may appeal to the Sheriff Appeal Court, and
    - (b) no further application in respect of that order shall otherwise be competent unless at least one year has elapsed from the date of the refusal.”
- (2) The modification made by subsection (1) applies only to offences committed on or after the date on which the modification comes into force.

## 3 Power to seize etc. dog suspected of attacking or worrying livestock

(1) Section 2 (enforcement) of the 1953 Act is amended as follows.

(2) In subsection (2)—

- (a) after “any land” insert “(other than premises)”,
- (b) for “that land, and the land” substitute “land that”.

(3) After that subsection, insert—

“(2A) Where in the case of a dog found on any land (other than premises) a police officer has reasonable cause to believe that—

- (a) the dog has been attacking or worrying livestock on land (whether the land on which the dog is found or other land) that appears to him to be agricultural land, and
  - (b) it is necessary to seize the dog in order to identify and secure evidence of the commission of an offence under section 1 of this Act,
- then the police officer may seize the dog and may detain it for as long as necessary to identify and secure any such evidence.”.

(4) In subsection (3)—

- (a) for “(10)” substitute “(9)”,
- (b) for “under the last preceding subsection” substitute “by a police officer under subsection (2) of this section”,
- (c) at the end, add “, subject to subsection (5) of this section”.

(5) After that subsection insert—

“(4) Subsections (2) to (9) of section three of the Dogs Act, 1906 shall apply in relation to dogs seized by a police officer under subsection (2A) of this section as they apply in relation to dogs seized under subsection (1) of that section, subject to—

- (a) disregarding the words “and paid all expenses incurred by reason of its detention” where they appear in subsection (4) of that section, and
- (b) subsection (5) of this section.

(5) The application of section three of the Dogs Act, 1906 to dogs seized under this section is subject to a presumption that, unless there are reasonable grounds to suspect that the dog is dangerous or it is otherwise impracticable to do so, the dog should be sold rather than destroyed.”.

#### **4 Powers to authorise entry, search, seizure etc.**

(1) For section 2A of the 1953 Act, substitute—

##### **“2A Power to authorise entry, search, seizure etc.**

(1) Subsection (4) applies if, on an application made by a constable, a sheriff or a justice of the peace is satisfied—

- (a) that there are reasonable grounds for believing that a dog in respect of which an offence under this Act has been committed is on premises specified in the application, and
- (b) that either subsection (2) or subsection (3) is complied with in relation to the premises.

(2) This subsection is complied with in relation to premises if—

- (a) either—
  - (i) admission to the premises has been refused, or
  - (ii) such a refusal may reasonably be expected, and
- (b) either—
  - (i) notice of the intention to seek a warrant has been given to the occupier of the premises, or

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

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- (ii) the giving of such notice would frustrate the purpose for which the warrant is sought.
  - (3) This subsection is complied with if the premises are unoccupied or the occupier is temporarily absent.
  - (4) Where this subsection applies, the sheriff or justice of the peace may issue a warrant authorising a constable to enter the premises (using such force as is reasonably necessary) and to search them in order to—
    - (a) identify the dog,
    - (b) ascertain who is the owner of the dog in the event that no person is present who admits to being the owner or to being in charge of the dog, in which case the constable may seize the dog and may detain it until the owner has claimed it and paid all expenses incurred by reason of its detention, and
    - (c) examine, seize and detain the dog in order to identify and secure evidence of the commission of an offence under this Act.
  - (5) A warrant issued under this section shall be authority for opening lockfast places and may authorise persons named in the warrant, or persons carrying out roles specified in the warrant, to accompany a constable who is executing it.
  - (6) Subsection (3) or, as the case may be, subsection (5) of section 2 of this Act shall apply to any dog seized by a constable under subsection (4)(b) of this section as if the dog had been seized by a police officer under subsection (2) of that section.
  - (7) Subsection (4) or, as the case may be, subsection (5) of section 2 of this Act shall apply to any dog seized by a constable under subsection (4)(c) of this section as if the dog had been seized by a police officer under subsection (2A) of that section.”.
- (2) After that section, insert—

**“2B Power to have dog examined**

Where a dog has been seized by a constable under section 2(2A) or section 2A(4)(c) of this Act, the constable may, without prejudice to any other power and whether or not in the presence of the owner or person in charge of the dog, arrange for the dog to be examined by a veterinary surgeon, and for the veterinary surgeon to take samples from the dog, for the purposes of identifying and securing evidence of the commission of an offence under this Act.”.

## 5 Definitions

- (1) Section 3 (Interpretation and supplementary provisions) of the 1953 Act is amended as follows.
- (2) In subsection (1)—
  - (a) in the definition of “agricultural land”—
    - (i) after “grazing land” insert “(including woodland that is used for grazing)”.

- (ii) after “pig farming,” insert “the raising of game birds,”
  - (b) the “and” at the end of that definition is repealed,
  - (c) after that definition, insert—
    - ““assistance dog” has the meaning given by section 173(1) of the Equality Act 2010;”,
  - (d) for the definition of “livestock” substitute—
    - ““livestock” means cattle, sheep, goats, swine, horses, camelids, ostriches, farmed deer, enclosed game birds or poultry, and for the purposes of this definition “cattle” means bulls, cows, oxen, buffalo, heifers or calves, “horses” includes donkeys and mules, “farmed deer” means deer of any species which are on agricultural land enclosed by a deer-proof barrier and kept by way of business for the primary purpose of meat production, “enclosed game birds” means any pheasant, partridge, grouse (or moor game), black (or heath) game or ptarmigan that are being kept enclosed prior to their release for sporting purposes, and “poultry” means domestic fowls, turkeys, geese or ducks;”, and
  - (e) after that definition, add—
    - ““veterinary surgeon” means a person registered in the register of veterinary surgeons, or the supplementary veterinary register, kept under the Veterinary Surgeons Act 1966 (c.36).”.
- (3) After subsection (3), add—
  - “(4) The Scottish Ministers may by regulations amend the definitions in subsection (1).”.
- (4) After that subsection, add—
  - “(5) Regulations under subsection (4) of this section are subject to the affirmative procedure.”.

## **6 Minor and consequential amendments to the 1953 Act**

In section 1 of the 1953 Act, in subsections (1), (3), (4) and (6), for “Act” substitute “section”.

## **7 Commencement**

- (1) The following provisions come into force on the day after Royal Assent—
  - (a) this section, and
  - (b) section 8.
- (2) The other provisions of this Act come into force at the end of the period of six months beginning with the date of Royal Assent.

## **8 Short title**

The short title of this Act is the Dogs (Protection of Livestock) (Amendment) (Scotland) Act 2021.