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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for the compulsory microchipping of dogs in Scotland and the recording of information about every dog and its keeper on a database. They set a technical standard for the type of microchip which must be used for the purposes of microchipping a dog under these Regulations. In addition, the Regulations also make wider provision about who may implant a microchip of any kind in a dog in Scotland.

Regulation 3 sets out the persons who may implant microchips of any kind. Any other person who implants a dog with a microchip commits an offence under regulation 13(4).

Regulation 4 sets out the technical standard which microchips must meet if they are to be used for the purposes of the Regulations. These are referred to as compliant microchips. It is an offence under regulation 13(4) for an implanter to hold out that a microchip is a compliant microchip where the implanter knows or could reasonably be expected to know that the microchip is not a compliant microchip.

Regulation 5 requires anyone who identifies an adverse reaction, migration or failure in a microchip to notify the Scottish Ministers. Failure to report without reasonable excuse is an offence under regulation 13(3). Regulations 3 to 5 come into force the day after the day on which the Regulations are made.

Regulation 6 requires that from 6th April 2016 every keeper of a dog has its dog microchipped. Microchipped means having the dog both implanted with a compliant microchip and the details set out in regulation 7 being recorded by a database operator. Where a veterinary surgeon certifies that the dog should not be microchipped due to the dog's health then the obligation does not apply for the period specified in the certificate. Regulation 6(4) provides that if a person brings a dog into Scotland then they must have it microchipped within 30 days of bringing it to Scotland. Regulation 6(7) requires the keeper of a dog to notify any change to the details recorded on the database. Regulation 6(8) provides that if a keeper becomes aware of a failure of a microchip in their dog, the keeper must have the dog re-microchipped.

Regulation 7 sets out the information to be notified to a database operator by the keeper of a dog who has had the dog implanted with a compliant microchip. Offences are provided in regulation 13(5) (a) and (b) in respect of false notifications.

Regulation 8 lists the conditions with which a person holding itself out as a database operator must comply. If a database operator holds itself out as complying with this regulation then it will be a database operator for the purposes of the Regulations and thereby bound to comply with the conditions. Failure to comply with the conditions listed in regulation 8 is a criminal offence by virtue of regulation 13(1)(a).

Regulation 9 gives the Scottish Ministers the power to require database operators to provide information to show the operator is complying with its obligations under regulation 8. It also permits the Scottish Ministers to be given statistical information from a database. Where a database operator is no longer complying with its regulation 8 obligations then the Scottish Ministers may issue a notice requiring the operator to cease holding itself out as regulation 8 compliant and may require the data to be passed to the Scottish Ministers or to another database operator who does comply. Notices may not come into effect before the period for appealing against them has expired.

**Draft Legislation:** This is a draft item of legislation and has not yet been made as a Scottish Statutory Instrument. This draft has been replaced by a new draft, *The Microchipping of Dogs (Scotland) Regulations 2016* ISBN 978-0-11-103023-3

Regulation 10 provides that when a dog is transferred to a new keeper the new keeper must notify their details to the database. It also provides that before a dog may be transferred it must have been microchipped and the current keeper's details be correct.

Regulation 12 gives authorised persons the power to take possession of a dog for the purposes of checking if it has been microchipped and that the microchip is working; and if not, to serve a notice on a keeper to require them to rectify the situation within 21 days. If a keeper fails to comply with a notice within 21 days, the authorised person may take possession of the dog without the keeper's consent to arrange for the dog to be microchipped and may recover the cost of doing so from the keeper. Failure to comply with a notice or intentional obstruction of a person exercising their powers under regulation 12 is an offence under regulation 13(5)(d) and (e).

Regulation 13 sets out the offences provided by these Regulations and the maximum fines payable.

Regulation 14 provides for appeals to a sheriff against various notices issued under the Regulations. Notices are suspended pending determination or withdrawal of the appeal.

A draft of these Regulations was notified on 24 July 2015 to the European Commission in accordance with the Technical Standards Directive ([Directive 98/34/EC](#) as amended by [Directive 98/48/EC](#)).

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is published on the Scottish Government website (<http://www.gov.scot>).