

CONTROL OF DOGS (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 2: Content of dog control notice

16. **Section 2** specifies additional requirements of a dog control notice to the requirement in section 1(1) to bring and keep under control. It also sets out the information which must be included in the notice and lists some indicative control measures.
17. Subsection (1)(a) requires that the proper person (known from this section on as “P”) complies with the terms of the notice to the satisfaction of the local authority. It also requires that P notifies the local authority of any change of name or address. In terms of section 4(1), the local authority which appointed the authorised officer who issued the notice has the duty to monitor the notice.
18. Subsection (1)(b) requires that the dog must be implanted with an electronic transponder (commonly known as a “microchip”). The electronic transponder will contain reference information, such as a number, which is unique to the dog. This number can then be associated with details of P using the details compiled to match the transponder reference information which will enable the dog to be correctly identified and the details of the P to be accessed.
19. Where the dog is already fitted with a transponder another one need not be fitted provided the local authority is satisfied that it enables the dog and P to be identified. Subsection (1)(c) requires that the local authority is informed that the transponder has been implanted and by whom, and the local authority has to be satisfied that such a person is qualified to fit a transponder (subsection (2)). This would include, for example, a veterinary surgeon.
20. P has to ensure that the transponder is implanted or satisfy the local authority that such a device is already fitted within 14 days of the effective date. The “effective date” is the date on which the dog control notice is served (subsections (13) and (9)(a)).
21. Subsection (1)(d) requires that P or an entrusted person (defined in subsection (3)) is in charge of the dog at all times when it is in a place to which the public have access. P retains liability for the behaviour of the dog at all times (see section 1(2)).
22. Subsection (3) defines an “entrusted person” as a person who is at least 16 years old and has for the time being been given charge of the dog. The entrusted person does not have any liability under this Act although they would be liable under the 1991 Act if they allowed a dog to be dangerously out of control. P should ensure the entrusted person is familiar with the requirements of the dog control notice, wishes and is able to comply with those requirements. This enables, for example, P to allow the dog to be taken for a walk by another person but ensures that P retains responsibility for the dogs behaviour.
23. Subsection (4) enables an authorised officer to specify other steps that must be taken in addition to those set out in sections 1(1) and 2(1). These steps may be the steps which the authorised officer considers necessary for the dog to be brought under control or the steps which may be helpful to achieve this. Subsection (6) provides a non-

*These notes relate to the Control of Dogs (Scotland) Act
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exhaustive illustrative list of such steps including muzzling the dog while in public and neutering the dog if male. This list is also illustrative for the purposes of steps which may be specified by a court under sections 9(4) or 5(6). These examples do not preclude authorised officers from imposing any other steps they consider necessary or appropriate.

24. Subsection (5) reinforces that no steps can be added by the authorised officer where the notice is served under section 1(1)(b), as in that case the notice has been served and steps specified by virtue of a decision of a court under sections 9 or 5.
25. Subsection (7) gives the Scottish Ministers the power to amend the requirements to be contained in a control notice set out in subsection (1) and to add to the list of requirements. A similar power is given to the Scottish Ministers to amend or add to the illustrative list of steps set out in subsection (6). Subsection (8) clarifies that the power to amend includes the power to remove but only those requirements or steps added to subsections (1) or (6) by the Scottish Ministers. These powers are exercisable by statutory instrument and are subject to affirmative resolution procedure (section 17).
26. Subsection (9) prescribes the information which must be included in a dog control notice. This includes the date upon which it is served, a description of the dog and the reason why the authorised officer considers that the dog is out of control. It also requires that the notice informs P of the rights of appeal and discharge and the penalty for non-compliance. Subsection (10) enables the local authority to include other relevant information. Subsection (11) gives the Scottish Ministers a power to prescribe the form of a dog control notice should they wish to standardise the style used. This power is exercisable by statutory instrument and subject to negative resolution procedure (section 17(1) and (3)).