

# CONTROL OF DOGS (SCOTLAND) ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Section 3: Appeal against dog control notice*

27. **Section 3** provides for an appeal against a dog control notice. Under subsection (1) P can appeal to the sheriff against the notice as a whole or a term of the notice where it is served by an authorised officer under section 1(1)(a) (where it comes to the attention of an authorised officer that a dog has been out of control). The appeal is by way of summary application<sup>1</sup> to the sheriff whose decision is final.
28. Subsection (2) gives the sheriff the power, on the application of P, to suspend the notice or any terms of the notice pending the appeal being determined.
29. Subsection (3) sets out the powers of the sheriff on appeal which include discharging or varying the notice or any term of the notice and subsection (4) enables the court on appeal to specify additional steps to be taken.
30. No appeal is provided for in this section against a notice served under section 1(1)(b) following the decision of a sheriff under section 9 (dangerous or unresponsive dogs) to remit the case. A person has an automatic right of appeal against a decision of the sheriff to impose the notice or any step of the notice to the sheriff principal under the relevant civil court procedure.<sup>2</sup> See paragraph 45 below. Appeals under section 5 follow the usual criminal appeal process. See paragraphs 39 and 40 below.

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<sup>1</sup> Rule 1.4 of the Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules) 1999 SI 1999/929 (S.65).

<sup>2</sup> Section 27 of the Sheriff Courts (Scotland) Act 1907 c. 51