

CONTROL OF DOGS (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 7: Discharge or variation of dog control notice on application of person on whom it was served

43. **Section 7** provides P with the right to apply to the local authority to have the notice discharged or varied. In doing so, P under subsection (2) must state in writing why they believe discharge or variation is appropriate.
44. Subsection (3) sets out the grounds on which the application can be based. These include death of the dog, that the proper person no longer has day to day charge of the dog and that the dog is no longer out of control. Where the application is made on the ground that the proper person no longer has day-to-day charge of the dog, the applicant must under subsection (4) supply the details of the new person who has day-to-day charge of the dog. The application can also be made on the grounds that it would be unreasonable for the notice to remain in place.
45. Subsection (5) allows the proper person to appeal to the sheriff where an application is refused. This is by way of summary application¹ and the decision of the sheriff is final.

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