

**2011 No. 39**

**DOGS**

**The Control of Dogs (Scotland) Act 2010 (Prescribed Form of Notice) Order 2011**

<i>Made</i>	- - - -	<i>24th January 2011</i>
<i>Laid before the Scottish Parliament</i>		<i>26th January 2011</i>
<i>Coming into force</i>	- -	<i>26th February 2011</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 2(11) of the Control of Dogs (Scotland) Act 2010(a) and all other powers enabling them to do so.

**Citation and commencement**

1. This Order may be cited as the Control of Dogs (Scotland) Act 2010 (Prescribed Form of Notice) Order 2011 and comes into force on 26th February 2011.

**Form of notice**

2. A dog control notice, within the meaning of section 1(1) of the Control of Dogs (Scotland) Act 2010, shall be in the form prescribed in the Schedule to this Order or a form substantially to the same effect.

*KENNY MACASKILL*  
A member of the Scottish Executive

St Andrew's House,  
Edinburgh  
24th January 2011

# SCHEDULE

Article 2

Reference No: ..... [Insert name and address of local authority]

## Dog Control Notice

Section 1(1) of the Control of Dogs (Scotland) Act 2010 (“the Act”)

To: Name of person to whom notice applies

Date of birth (optional), address and postcode of person to whom notice applies

On ..... it came to my attention that (in the manner described below) the dog described below is not being kept under control effectively and consistently, and its behaviour has given rise to alarm or apprehensiveness on the part of a person which is, in all the circumstances, reasonable. I am of the opinion that this warrants the serving of a dog control notice under section 1(1) of the Act which requires you to bring and keep this dog under control.

**Description of circumstances, including specific location if appropriate, and reason(s) why dog is considered to have been out of control:—**      **Description of dog (including type/breed, sex, any identification marks and the name commonly referred to, if known):—**

I, \_\_\_\_\_, as an “authorised officer” (as described in section 1(6) of the Act which is detailed below), in accordance with section 2 of the Act, require you as the “proper person” (as described in section 1(5) of the Act which is detailed below) in relation to the dog detailed in this notice to take the following steps:

**Steps required to be taken by you:–**

Under sections 1 and 2 of the Act:

1. You are required to bring and keep the dog described in this notice under control.
2. You must comply with this notice to the satisfaction of the local authority.
3. You must notify the local authority if you change your name or address.
4. Within 14 days after the date on which this notice is served you must arrange for an electronic transponder (microchip) to be implanted in the dog by an appropriately qualified person as a means of indentifying you and the dog, or satisfy the local authority that such a transponder was implanted in the dog before the notice was served. If the dog has not been implanted with an electronic transponder when you receive this notice, you must inform your local authority once the transponder has been implanted and advise who implanted it.

Electronic Transponder/Microchip Code Number (optional):

5. You or an “entrusted person” must be present and in charge of the dog whenever it is in a place to which the public have access. An “entrusted person” (as defined in section 2(3) of the Act) is a person who is at least 16 years of age, has been entrusted by you with charge of the dog, has been made aware of the requirements of this notice by you and is willing and able to comply with those requirements.

6. You are also required to take the following steps to the satisfaction of the local authority by the date specified (if any) for the purpose of bringing and keeping the dog under control:-

Step	Additional instruction	If appropriate, select date by which the step is to be taken by

**Effect of failure to comply with notice**

Under section 5 of the Act, **it is an offence to fail to comply with a dog control notice**. If you are prosecuted you may be liable to pay a fine of up to £1,000. The court may also make an order disqualifying you from owning or keeping a dog during such a period as the court thinks fit. If the court considers that the dog is dangerous, it may make an order for the dog's destruction.

**Right to appeal this notice**

Section 3(1) of the Act provides that you can appeal against a dog control notice or against a term of such a notice. The appeal must be made by summary application to the sheriff. However, where a dog control notice has been issued as a result of court proceedings where a court has ordered that you should be subject to a dog control notice (under sections 5(4) or 9(3) of the Act), no such appeal is available.

To lodge an appeal, you should contact your local sheriff court to ask for a summary application form. The application must be lodged with the sheriff clerk within 21 days after the date of service of this notice.

[Insert name, address and telephone number of sheriff court]

Section 3(2) of the Act gives the sheriff the power to suspend the effect of the dog control notice or of any term of the notice, if you apply for this, pending the appeal being determined.

Section 3(3) of the Act sets out the powers of the sheriff on appeal. The sheriff may uphold or discharge the notice or the term appealed against. The sheriff may also discharge or vary any term of the notice. Section 3(4) of the Act allows the court to specify steps to be taken by you which are in addition to those included in the notice.

**How to apply to the local authority to have this notice discharged or varied**

Under section 7 of the Act, you can apply at any time in writing to your local authority to have the dog control notice discharged or varied. You must detail the grounds on which the application is based. The grounds for discharge are set out in section 7(3) of the Act.

The local authority can also decide to discharge the dog control notice or, with your agreement, amend the terms of a dog control notice under section 6 of the Act.

**Effect of a continued failure to keep a dog under control**

Section 9 of the Act provides that where it appears to an authorised officer that a dog is out of control and dangerous and serving a dog control notice (or a further dog control notice) would be inappropriate, the local authority may apply to the court for an order to destroy the dog. Where the court makes an order for the dog's destruction, it may also disqualify the dog's owner from owning or keeping a dog for a specified period.

Under section 4 of the Act, a local authority has a duty to monitor the effectiveness of, and to enforce, dog control notices served by an authorised officer. As an authorised officer, I intend to undertake ongoing monitoring of the dog control notice to assess whether the steps specified have been complied with and are effective in bringing the dog described in this notice under control.

Signed:— ..... ..... .....		Official Address and Contact Telephone Number:—
Print Name:—  This notice is served on: _____ (date) This is the date on which this notice comes into effect.		

## THE CONTROL OF DOGS (SCOTLAND) ACT 2010

### Section 1 – Serving of dog control notice

(1) If—

- (a) it comes to the attention of an authorised officer that a dog has, on at least one occasion after this section has come into force, been out of control, the officer may serve on the proper person a written notice (to be known as a “dog control notice”) requiring the person to bring and keep the dog under control,
- (b) a court makes a requirement under section 5(4) or a case is remitted under section 9(3), an authorised officer is to serve such a notice (or as the case may be a further such notice) on the proper person.

6

(3) For the purposes of this Act, a dog is out of control if—

- (a) it is not being kept under control effectively and consistently (by whatever means) by the proper person,
  - (b) its behaviour gives rise to—
    - (i) alarm, or
    - (ii) apprehensiveness,on the part of any individual, and
  - (c) the individual's alarm or apprehensiveness is, in all the circumstances, reasonable.
- (4) the apprehensiveness mentioned in subsection (3)(b)(ii) may be as to (any or all)—

(8) A dog control notice is not to relate to more than one dog.

(a) the individual's own safety,

(b) the safety of some other person, or

(c) the safety of an animal other than the dog in question.

(5) In this Act, references to the “proper person”, in relation to any dog, are to—

(a) its owner (or, if its owner has not attained the age of 16 years, a person who has parental responsibilities in relation to its owner), or

(b) if either—

(i) it is not apparent, after reasonable inquiry, to the authorised officer who the dog's owner (or the person having parental responsibilities in relation to its owner) is, or

(ii) it appears to the authorised officer that the circumstances are such that it would not be reasonable to serve a dog control notice on the dog's owner (or on the person having such parental responsibilities),

any person who has attained the age of 16 years and who appears to the authorised officer to have day-to-day charge of the dog.

(6) In this Act references to an “authorised officer” are to an officer appointed for the purposes of this Act by a local authority; and each local authority must appoint at least one such officer.

(7) In appointing any person to be such an officer a local authority are to satisfy themselves that the person is skilled in the control of dogs and has the capacity to instruct and advise others in matters relating to the control of dogs.

## **EXPLANATORY NOTE**

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

This Order prescribes the form for a dog control notice which can be served under section 1(1) of the Control of Dogs (Scotland) Act 2010. A notice in the prescribed form may be served by an authorised officer appointed by a local authority where a dog has been out of control. The notice sets out the reasons why an authorised officer considers the dog was out of control and specifies what steps the recipient of the notice must take to bring and keep the dog under control.

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