

Dog Theft (Scotland) Bill

[AS INTRODUCED]

CONTENTS

Section

The offence of dog theft

- 1 Dog theft
- 2 Theft of assistance dogs
- 3 Victim statements

Reporting of offences and review of legislation

- 4 Annual reports by Scottish Ministers
- 5 Review of operation of the Act

Final provisions

- 6 Ancillary provision
- 7 Commencement
- 8 Short title

**THE FOLLOWING ACCOMPANYING DOCUMENTS ARE ALSO PUBLISHED:
Explanatory Notes (SP Bill 58-EN), a Financial Memorandum (SP Bill 58-FM), a Policy Memorandum (SP Bill 58-PM), a Delegated Powers Memorandum (SP Bill 58-DPM) and statements on legislative competence (SP Bill 58-LC).**

Dog Theft (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to create an offence of dog theft; to provide for a statutory aggravation of that offence; to provide for publication of information relating to that offence; to provide for a review of the operation of the new offence; and for connected purposes.

The offence of dog theft

- 5 **1 Dog theft**
- (1) A person (A) commits the offence of dog theft if they—
- (a) take a dog so as to remove it from the lawful control of any person, or
 - (b) keep a dog so as to keep it from the lawful control of any person who is entitled to have lawful control of it.
- 10 (2) The offence of dog theft is not committed if—
- (a) at any time before the taking or keeping of the dog, the following lived together in the same household—
 - (i) the person (A) who took or kept the dog,
 - (ii) a person (B) from whose lawful control it was taken or kept, and
 - 15 (iii) the dog,
 - (b) A and B had been living together before the dog began to live with them,
 - (c) A and B subsequently ceased to live together, and
 - (d) A took or kept the dog at or after the time when A and B ceased to live together.
- (3) It is a defence for a person charged with the offence of dog theft to show that the person had lawful authority or a reasonable excuse for taking or keeping the dog.
- 20 (4) It is a defence for a person charged with the offence of dog theft by virtue of subsection (1)(b) to show that the person—
- (a) believed that the dog was stray, lost or abandoned,
 - (b) took all reasonable steps to comply with section 150(1) of the Environmental Protection Act 1990 (delivery of stray dogs to owner or officer of local authority), and
 - 25 (c) did not keep the dog for more than 96 hours (disregarding any period during which it is kept by virtue of section 150(2)(a) of that Act).

- (5) A person is taken to have shown a fact mentioned in subsection (3) or (4) if—
- (a) sufficient evidence of the fact is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (6) A person who commits the offence of dog theft is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the prescribed sum (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine (or both).
- (7) In subsection (6), the “prescribed sum” has the meaning given by section 225(8) of the Criminal Procedure (Scotland) Act 1995.
- (8) In this section—
- (a) references to a person taking a dog include the person—
 - (i) causing or inducing the dog to accompany the person or anyone else, or
 - (ii) causing the dog to be taken,
 - (b) references to a person keeping a dog include the person—
 - (i) causing or inducing the dog to remain with the person or anyone else, or
 - (ii) causing the dog to be kept.

2 Theft of assistance dogs

- (1) An offence of dog theft is aggravated if a dog which is taken or kept is an assistance dog.
- (2) For the purpose of this section, the term “assistance dog”—
- (a) has the meaning given to it by section 173(1) (interpretation) of the Equality Act 2010, and
 - (b) includes a dog of a category prescribed by regulations made by the Scottish Ministers.
- (3) Evidence from a single source is sufficient to prove that a dog is an assistance dog.
- (4) Subsection (5) applies where it is—
- (a) libelled in an indictment, or specified in a complaint, that an offence is aggravated by a dog which is taken or kept being an assistance dog, and
 - (b) proved that the offence is so aggravated.
- (5) The court must—
- (a) state on conviction that the offence is aggravated by a dog which is taken or kept being an assistance dog,
 - (b) record the conviction in a way that shows that the offence is so aggravated,
 - (c) take the aggravation into account in determining the appropriate sentence, and
 - (d) state—
 - (i) where the sentence in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or

(ii) otherwise, the reasons for there being no such difference.

(6) Regulations made under subsection (2)(b) are subject to the negative procedure.

3 Victim statements

(1) Section 14 of the Criminal Justice (Scotland) Act 2003 is amended in accordance with subsections (2) and (3).

(2) After subsection (1) insert—

“(1A) Where proceedings in respect of an offence under section 1 of the Dog Theft (Scotland) Act 2025 are to be taken, or likely to be taken in a court, that court is to be treated as a prescribed court.”.

(3) After subsection (2) insert—

“(2A) For the purposes of subsection (2), an offence under section 1 of the Dog Theft (Scotland) Act 2025 is to be treated as a prescribed offence.”.

Reporting of offences and review of legislation

4 Annual reports by Scottish Ministers

(1) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period—

- (a) prepare and publish a report on the operation of this Act, and
- (b) lay the report before the Scottish Parliament.

(2) The report must include—

- (a) the number of reports received during the reporting year by the chief constable of the Police Service of Scotland of a dog being taken or kept in the circumstances mentioned in section 1(1),
- (b) the number of reports where it was assessed by the chief constable of the Police Service of Scotland that—

- (i) no offence was committed because section 1(2) applied, or
- (ii) a defence specified in sections 1(3) or 1(4) applied,

(c) the number of persons charged by the chief constable of the Police Service of Scotland with an offence under section 1 of this Act,

(d) the number of cases for which criminal proceedings are undertaken where an offence under section 1 of this Act was charged,

(e) the number of convictions obtained for an offence under section 1 of this Act,

(f) the number of cases and convictions mentioned at paragraphs (d) and (e) where criminal proceedings were undertaken or convictions obtained (as the case may be) under—

- (i) summary procedure, and
- (ii) solemn procedure,

(g) the nature of each sentence imposed after conviction for an offence under section 1 of this Act, including—

- (i) whether an aggravation applied,

- (ii) length of sentence, and
 - (iii) level of fine, and
 - (h) the information mentioned at paragraphs (c) to (f) where the charge, criminal proceedings, conviction or sentence (as the case may be) related to a common law offence of theft, where the property taken or kept was a dog.
- 5
- (3) The report may include such other information as the Scottish Ministers consider appropriate.
 - (4) A relevant person holding information mentioned in subsection (2) must provide that information to Scottish Ministers—
 - 10 (a) in such form and manner as the Scottish Ministers may require, and
 - (b) by such time as the Scottish Ministers may require.
 - (5) The relevant persons mentioned in subsection (4) are—
 - (a) the Scottish Courts and Tribunals Service,
 - (b) the Lord Advocate, and
 - 15 (c) the chief constable of the Police Service of Scotland.
 - (6) In this section, “reporting period” is the period of 1 year beginning with the day on which this section comes into force and each subsequent period of 1 year.

5 Review of operation of the Act

- 20 (1) The Scottish Ministers must, as soon as reasonably practicable (and no later than 6 months) after the end of the review period—
 - (a) undertake a review of the operation of this Act, and
 - (b) prepare a report on that review.
- (2) The report must, in particular, set out—
 - 25 (a) the extent to which the Act has been successful in reducing the occurrence of the theft of dogs,
 - (b) the number of cases of theft of dogs—
 - (i) prosecuted under this Act, and
 - (ii) prosecuted as a common law offence of theft,
 - (c) any concerns with the operation of the Act which have been raised,
 - 30 (d) the Scottish Ministers’ response to any such concerns, including any recommendations in relation to changes to any enactment, including this Act,
 - (e) whether the Scottish Ministers consider that—
 - (i) there should be a statutory offence or offences of the theft of any other type of animal normally kept as a pet, and
 - 35 (ii) such offence or offences should specify the type of animal protected or apply generally to other types of animals normally kept as pets.
- (3) In undertaking the review and preparing the report, the Scottish Ministers must—
 - (a) take into account annual reports published by them under section 4(1)(a) during the review period,

- (b) consult any persons or organisations they consider appropriate, and
 - (c) in relation to the matter mentioned at subsection (2)(e), consult publicly.
- (4) The Scottish Ministers must, as soon as reasonably practicable after preparing the report—
- (a) publish the report, and
 - (b) lay the report before the Scottish Parliament.
- (5) In this section, the “review period” is the period of 5 years beginning with the day on which section 1 of this Act comes into force.

Final provisions

6 Ancillary provision

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act or any provision made under it.
- (2) Regulations made under subsection (1) may—
- (a) modify any enactment (including this Act),
 - (b) make different provision for different purposes.
- (3) Subject to subsection (4), regulations made under this section are subject to the negative procedure.
- (4) Any regulation which adds to, replaces or omits any part of the text of an Act is subject to the affirmative procedure.

7 Commencement

- (1) This section and sections 6 and 8 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulation appoint.
- (3) Regulations under subsection (2) may—
- (a) include transitional, transitory or saving provision,
 - (b) make different provision for different purposes.

8 Short title

The short title of this Act is the Dog Theft (Scotland) Act 2025.

Dog Theft (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to create an offence of dog theft; to provide for a statutory aggravation of that offence; to provide for publication of information relating to that offence; to provide for a review of the operation of the new offence; and for connected purposes.

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