
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2016 No.

The Microchipping of Dogs (Scotland) Regulations 2016

Appeals

14.—(1) An individual may appeal to the sheriff against a notice served on that individual under regulation 3(3).

(2) A database operator may appeal to the sheriff against a notice served on it under regulation 9(1).

(3) A person mentioned in regulation 9(2) may appeal to the sheriff against a notice served on that person under regulation 9(2).

(4) The Scottish Ministers may be a party to an appeal under this regulation.

(5) Where an appeal is made under this regulation, the effect of the notice being appealed is suspended pending determination or withdrawal of the appeal.

(6) An appeal under this regulation must be lodged with the sheriff clerk within the period of 21 days beginning with the day on which the notice being appealed was served.

(7) On good cause being shown, the sheriff may hear an appeal under this regulation notwithstanding that it was not lodged within the period mentioned in paragraph (6).

(8) For the purposes of an appeal under this regulation, the sheriff may—

- (a) require the Scottish Ministers to give reasons for the notice and they must comply with such requirement;
- (b) hear evidence by or on behalf of any party to the appeal; or
- (c) consider any evidence or other information relevant to the appeal (whether or not available when the notice was given).

(9) The sheriff may uphold an appeal under this regulation only if the sheriff considers that the Scottish Ministers, in serving the notice—

- (a) erred in law;
- (b) based the decision to serve the notice on any incorrect material fact;
- (c) acted contrary to natural justice; or
- (d) exercised the relevant authority's discretion in an unreasonable manner.

(10) On upholding an appeal under this regulation, the sheriff may—

- (a) remit the matter with the reasons for such decision to the Scottish Ministers for reconsideration of their decision to serve the notice;
- (b) vary the notice; or
- (c) quash the notice.

(11) On remitting a matter to the Scottish Ministers for reconsideration of their notice, the sheriff may—

- (a) modify any procedural steps which otherwise would be required in relation to the matter by or under any enactment (including these Regulations); and

(b) specify a date by which the Scottish Ministers are to reconsider the notice.

(12) The sheriff may include in the decision on an appeal under this regulation such order as to the expenses of the appeal as the sheriff thinks proper.