

EXPLANATORY NOTES

Dog Theft (Scotland) Act 2026 (asp 2)

£8.90

These notes relate to the Dog Theft (Scotland) Act 2026 (asp 2)
which received Royal Assent on 10 February 2026

DOG THEFT (SCOTLAND) ACT 2026

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Parliament's Non-Government Bills Unit on behalf of Maurice Golden MSP, the member who introduced the Bill for this Act in the Parliament, in order to assist the reader of the Dog Theft (Scotland) Act. They do not form part of the Act and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation, none is given.

THE ACT

3. The Act creates a statutory offence of dog theft, as well as creating a statutory aggravation for the theft of a helper dog. The Act provides for the Scottish Ministers to report to the Parliament on the operation of the Act after three years and sets out certain matters which must be included in that report.

SUMMARY OF AND BACKGROUND TO THE ACT

4. The Act provides for certain defences which a person can use when charged with the offence of dog theft to show that they had lawful authority or a reasonable excuse for taking or keeping the dog. There are three defences available under the Act which can be raised where relevant. They are 1) lawful authority to take or keep the dog; 2) reasonable excuse to take or keep the dog; 3) defence in relation finding or taking possession of stray, lost or abandoned dogs.

5. Finally, the Act confers a regulation making power on the Scottish Ministers to add to the categories of "helper dog" for the purposes of section 2 of this Act, which deals with the aggravation of the offence of dog theft established under the Act.

6. Currently, in Scotland, when a person is charged with the theft of a dog the common law offence of theft would apply. The Act provides for the creation of a specific offence of dog theft, with penalties not exceeding 12 months imprisonment or to a fine not exceeding the prescribed sum (or both) in summary proceedings, or up five years imprisonment or an unlimited fine (or both) in solemn proceedings.

7. The Act is in six sections.

COMMENTARY ON SECTIONS

Section 1 – Dog theft

8. Section 1 of the Act creates the offence of dog theft. Subsection (1) defines this as taking a dog so as to remove it from the lawful control of any person, or keeping a dog so as to keep it from the lawful control of any person who is entitled to have lawful control of it. The wording of this subsection is drawn from wording in the Pet Abduction Act 2024 ("the 2024 Act"), which was passed by the UK Parliament and received Royal Assent on 24 May 2024[1].

9. Subsection (2) provides that no offence is committed where the conditions in (a) to (d) of that subsection are met. In short, the offence does not apply where a person who previously lived together in the same household with the dog takes or keeps the dog. This would, for example, cover a scenario where a couple separate following a domestic dispute and one partner keeps the dog. The wording of this subsection also draws heavily on the wording used in the 2024 Act.

10. Subsection (3) provides for the defences of lawful authority and reasonable excuse for taking or keeping a dog. This wording is also drawn from the 2024 Act. An example of lawful authority would be where a police officer or a local authority officer takes the dog from the owner to protect the dog or another individual from harm. An example of a reasonable excuse would be the belief that the person had the consent of the owner or (for example) a dog sitter to keep or take the dog.

11. Subsection (4) makes provision in relation to stray dogs which takes into account the requirements that already apply in relation to a person finding and taking possession of a stray dog under section 150(1) of the Environmental Protection Act 1990 ("the 1990 Act"). Section 150(1) of the 1990 Act requires the finder of a stray dog to return the dog to its owner or contact the local authority for the area in which the dog was found. Subsection (4) provides a defence for a person charged with the offence of dog theft to show that they believed that the dog was stray, lost or abandoned, and took all reasonable steps to deliver the dog to the owner or a local authority officer. The wording reflects the wording in the 2024 Act, with one exception: instead of referring to "a stray dog", the Act widens the term to encompass a dog which was "stray, lost or abandoned". This is because it may not be obvious that a dog which is clearly owned by someone (for instance, because it appears well-fed and is found with a collar and the owner's address on its collar) is "stray" for the purposes of this defence.

12. Subsection (5) provides that, where a defence is raised by the accused under subsections (3) or (4) and sufficient evidence of the defence is provided, the onus of proof remains on the prosecution to prove beyond reasonable doubt that the defence does not apply.

13. Subsections (6) and (7) make provision in relation to the penalties to be applied for the offence of dog theft. These are up to 12 months imprisonment and/or a fine not exceeding the prescribed sum (as defined by section 225(8) of the Criminal Procedure (Scotland) Act 1995) on summary conviction, and up to five years' imprisonment and/or an unlimited fine on conviction on indictment.

[1] Pet Abduction Act 2024 Stages - Parliamentary Bills - UK Parliament

14. Subsection (8) includes definitions of "taking" and "keeping" for the purposes of this section. In practice this would mean that someone who may not have committed the physical act of stealing the dog, but has either facilitated the theft or been an accomplice in enabling the theft to happen, for example, as provided for in section 1(8)(a)(i) by causing or inducing the dog to accompany them or anyone else, would be covered by the definitions.

Section 2 – Theft of helper dogs

15. Section 2 provides that the offence of dog theft under section 1 will be aggravated if the dog taken or kept is a helper dog, regardless of whether or not the dog is working when it is stolen. The aggravation makes the charge more serious and is likely to make the sentence more severe.[2] Subsection (1) provides for the aggravation. Subsection (2) defines the term "helper dog". Under subsection (2) a "helper dog" means an assistance dog as defined by section 173(1) of the Equality Act 2010 or a dog of a category prescribed by regulations made by the Scottish Ministers. Section 173(1)(c) and (d) of the Equality Act 2010 empowers the UK Government to make regulations to extend the definition of "assistance dog". Subsection (2)(b) enables the Scottish Ministers to make regulations to prescribe additional categories of dogs as helper dogs for the purpose of section 2. This may include, for example, working dogs or dogs which otherwise assist their owner with daily tasks, but which are not covered by the definition in section 173(1) of the Equality Act 2010. Any such regulations would be made only for the purposes of the definition of "helper dog" under this Act, and would not affect the definition of "assistance dog" set out in section 173 of the Equality Act 2010.

16. Subsection (3) provides that evidence from a single source is sufficient to prove that a dog is a helper dog. This means that corroboration is not required. Subsections (4) and (5) set out the requirements placed on the court for recording the aggravation and taking it into account when determining the appropriate sentence.

Section 3 – Report on operation of this Act

17. Subsection (1) requires the Scottish Ministers to prepare and publish a report on the operation of the Act, and for the report to be laid before the Scottish Parliament. Subsection (2) sets out what information such a report must include. Subsection (3) provides that the report may include other information the Scottish Ministers consider appropriate.

18. Subsection (4) places a duty on certain bodies holding information set out in subsection (2) to provide that information to the Scottish Ministers in the form, manner and such time the Scottish Ministers may require. Subsection (5) sets out that these bodies are the Scottish Courts and Tribunals Service, the Crown Office and Procurator Fiscal Service (on behalf of the Lord Advocate) and Police Scotland.

19. Subsection (6) defines "reporting period" as the period of three years beginning with the day on which section 1 comes into force. This means that the report must be published as soon as reasonably practicable after that three-year period has elapsed.

[2] Scottish Sentencing Council Sentencing Factors | Scottish Sentencing Council

Section 4 – Ancillary provision

20. Section 4 gives the Scottish Ministers a freestanding regulation-making power to make any incidental, supplementary, consequential, transitional, transitory or saving provision that they consider appropriate for the purposes of, or in connection with, or for giving full effect to, the Act. Subsection (2) allows such regulations to modify any legislation, including the Act itself and in doing so, the regulations would be subject to the affirmative procedure but otherwise are subject to the negative procedure. The ability to make different provision for different purposes under this section enables a regulation-making power to be used in different ways in different circumstances.

Section 5 - Commencement

21. Section 5 sets out when the provisions of the Act come into effect as a matter of law. It provides that the sections on ancillary provision, commencement and the short title come into force on the day after Royal Assent. All other sections of the Act come into force on a day appointed by regulations made by the Scottish Ministers. Those regulations may make transitional, transitory or saving provision related to commencement and may make different provision for different purposes. They will also be required to be laid before the Scottish Parliament under section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010 but they are not otherwise subject to any parliamentary procedure.

Section 6 – Short Title

22. Section 6 provides that the short title of the Act is the Dog Theft (Scotland) Act 2026.

PARLIAMENTARY HISTORY

23. The following table sets out, for each Stage of the proceedings in the Scottish Parliament on the Bill for this Act, the dates on which the proceedings at that Stage took place, and references to the Official Report of those proceedings. It also shows the dates on which Committee reports and other papers relating to the Bill were published, and gives references to those reports and other papers.

PROCEEDINGS AND REPORTS	**REFERENCE**
BEFORE INTRODUCTION	
Draft proposal – lodged 21 October 2022 Final proposal – lodged 13 September 2023	Proposed Dog Abduction Scotland Bill | Scottish Parliament Website
INTRODUCTION	
Bill (as introduced) – 17 February 2025	SP Bill 58, Session 6 (2025): Dog Theft (Scotland) Bill as introduced
SPICe briefing on Bill (as introduced) – published 18 March 2025	SPICe briefing SB 25-12: Dog Theft (Scotland) Bill
STAGE 1	
(a) Lead committee – Rural Affairs and Islands Committee	
7th Meeting, 2025, 26 February 2025	Private meeting
11th Meeting, 2025, 26 March 2025	Columns 2-24: Official Report
13th Meeting, 2025, 23 April 2025	Columns 1-22: Official Report
17th Meeting, 2025, 21 May 2025	Columns 41-53: Official Report
22nd Meeting, 2025, 24 June 2025	Private meeting
Stage 1 report – published 2 July 2025	7th Report, 2025 (Session 6)
(b) Delegated Powers and Law Reform Committee	
Report	26th Report, 2025 (Session 6): Delegated powers in the Dog Theft (Scotland) Bill at Stage 1
(c) Consideration by the Parliament	
Stage 1 debate – 2 October 2025	Columns 67-94: Official Report
STAGE 2	
Rural Affairs and Islands Committee	
Stage 2 proceedings – 5 November 2025	Columns 33-50: Official Report
Bill (as amended at Stage 2) – 5 November 2025	SP Bill 58A, Session 6 (2025): Bill as amended

PROCEEDINGS AND REPORTS	**REFERENCE**
AFTER STAGE 2	
Delegated Powers and Law Reform Committee	
Report	93rd Report, 2025 (Session 6):
	Delegated powers in the Dog Theft (Scotland) Bill (as amended at Stage 2)
STAGE 3	
Consideration by the Parliament	
Stage 3 proceedings – 16 December 2025	Columns 30-49:
	Official Report
Bill (as passed) – 16 December 2025	SP Bill 58B, Session 6 (2025):
	Bill as passed
ROYAL ASSENT	
10 February 2026	Dog Theft (Scotland) Act 2026 (asp 2)

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