

*Draft Regulations laid before the Scottish Parliament under section 51(3) of the Animal Health and Welfare (Scotland) Act 2006 for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2016 No.**

**ANIMALS**

ANIMAL WELFARE

**The Microchipping of Dogs (Scotland) Regulations 2016**

*Made - - - - 2016*

*Coming into force in accordance with regulation 1(2)*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 26(1), (2) and (3) and 51(2) of the Animal Health and Welfare (Scotland) Act 2006<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 26(5) of that Act, the Scottish Ministers have consulted with such persons appearing to them to represent relevant interests and such other persons as the Scottish Ministers consider appropriate.

In accordance with section 51(3) of that Act, a draft of this instrument has been laid before, and approved by resolution of, the Scottish Parliament<sup>(2)</sup>.

**Citation and commencement**

1.—(1) These Regulations may be cited as the Microchipping of Dogs (Scotland) Regulations 2016.

(2) These Regulations come into force on the day after the day on which they are made.

**Interpretation**

2. In these Regulations—

“adverse reaction” means any unnecessary pain, suffering or pathology on the part of a dog which is caused, or appears to be caused, by a microchip implanted in the dog;

“authorised person” has the meaning given by regulation 11;

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(1) 2006 asp 11.

(2) Section 51(3) has been modified by paragraph 5 of schedule 3 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

“breeder” means the keeper of a bitch which whelps, whether or not the keeper is carrying on business as a breeder of dogs;

“compliant microchip” means a microchip which meets the requirements set out in regulation 4;

“database operator” means a database operator—

- (a) which holds itself out as meeting the conditions in regulation 8; and
- (b) on which the Scottish Ministers have not served a notice under regulation 9(2)(a);

“failure of a microchip” means failure to transmit the number encoded in the microchip when scanned by an appropriate transceiver;

“implanter” means, subject to regulation 3(6), any of the individuals listed in regulation 3(5);

“keeper” means—

- (a) in relation to an assistance dog (within the meaning of section 173(1) of the Equality Act 2010<sup>(3)</sup>)—
  - (i) until the dog ceases working as an assistance dog, the body responsible for it; and
  - (ii) after the dog has ceased working as an assistance dog, the person with whom it normally resides;
- (b) in relation to a new born puppy, the keeper of the bitch that gave birth to it; and
- (c) in relation to any other dog, the person with whom it normally resides;

“microchip” means a read-only passive radio frequency identification device;

“microchipped” means microchipped in accordance with regulation 6;

“migration” means the movement of a microchip in a dog from its implantation site;

“retained data” means data which a database operator must record by virtue of regulation 8(1)(a);

“student of veterinary surgery” has the same meaning as given by paragraph 3 of the Schedule to the Veterinary Surgeons (Practice by Students) Regulations Order of Council 1981<sup>(4)</sup>;

“unique number” means the unique number referred to in regulation 4(a); and

“veterinary nurse” and “student veterinary nurse” have the same meanings as given by paragraphs 6 and 7 of Part 1 of Schedule 3 to the Veterinary Surgeons Act 1966<sup>(5)</sup> respectively.

### **Implanter requirements as regards implanting any microchip**

3.—(1) No individual other than an implanter may implant a microchip of any kind in a dog.

(2) An implanter must not hold out to the keeper of a dog that a microchip is a compliant microchip where the implanter knows, or could reasonably be expected to know, that the microchip is not a compliant microchip.

(3) Where it appears to the Scottish Ministers, on the basis of information provided to them, that an implanter mentioned in paragraph (5)(c) or (d) is not competent to implant microchips in dogs to a satisfactory standard, the Scottish Ministers may serve a notice on that individual prohibiting that individual from implanting microchips in dogs—

- (a) until the individual has received further training on a course approved by the Scottish Ministers; or

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(3) 2010 c.15.

(4) S.I. 1981/988, amended by S.I. 1995/2397.

(5) 1966 c.36; paragraph 6 was inserted by S.I. 1991/1412, substituted by S.I. 2002/1479 and amended by S.I. 2008/1824; paragraph 7 was inserted by S.I. 2002/1479.

(b) permanently.

(4) A notice served under paragraph (3) must set out the reasons why an individual is not considered to be competent to implant microchips in dogs.

(5) Subject to paragraph (6), “implanter” means any of the following individuals—

- (a) a veterinary surgeon, or a veterinary nurse acting under the direction of a veterinary surgeon;
- (b) a student of veterinary surgery or a student veterinary nurse and in either case acting under the direction of a veterinary surgeon;
- (c) an individual who has been satisfactorily assessed on a training course on implanting microchips in dogs approved by the Scottish Ministers; or
- (d) an individual who, before the day on which these Regulations come into force, received training on implantation which included practical experience of implanting a microchip.

(6) An individual prohibited from implanting microchips in dogs by virtue of paragraph (3) is not an “implanter” for so long as the individual is so prohibited.

#### **Compliant microchip**

4. A compliant microchip means a microchip which meets the following requirements—

- (a) it must have a unique number which includes the manufacturer’s code;
- (b) it must be compliant with ISO standard 11784:1996 (radio frequency identification of animals – code structure) of the International Standards Organisation’s standards for microchips<sup>(6)</sup>;
- (c) it must be compliant with ISO standard 11785:1996 (radio frequency identification of animals – technical concept) of the International Standards Organisation’s standards for microchips apart from Annex A; and
- (d) it must respond to a transceiver which operates at 134.2 kilohertz and conforms with the FDXB protocol set out in ISO standards 11784:1996 and 11785:1996.

#### **Adverse reaction, migration and failure of a compliant microchip**

5. An individual who identifies any of the following in respect of a compliant microchip implanted in a dog must report it to the Scottish Ministers within 21 days beginning with the day of so identifying—

- (a) an adverse reaction;
- (b) a migration; or
- (c) a failure of a microchip.

#### **Obligation to microchip**

6.—(1) Subject to paragraphs (2) and (3), from 6th April 2016 every keeper of a dog which is older than 8 weeks must ensure that it is microchipped.

(2) Paragraphs (1) and (4) do not apply for as long as a veterinary surgeon certifies that a dog should not be microchipped for reasons of the dog’s health.

(3) A certificate issued under paragraph (2) must state the period for which the dog will be unfit to be microchipped.

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(6) ISO Central Secretariat, International Organization for Standardization (ISO), 1 rue de Varembe, Case postale 56, CH-1211, Genève 20, Switzerland.

(4) From 6th April 2016, a keeper who brings a dog into Scotland must ensure that the dog is microchipped within 30 days of the date on which it is brought into Scotland.

(5) Subject to paragraph (6), a dog is microchipped where—

- (a) a compliant microchip has been implanted in the dog; and
- (b) the details set out in regulation 7 are recorded on a database by a database operator meeting the conditions set out in regulation 8.

(6) Before 6th April 2017, the details to be recorded on a database by virtue of paragraph (5)(b) do not include those set out in regulation 7(f).

(7) From 6th April 2016, every keeper of a dog which has been implanted with a compliant microchip must notify any change to the details that are to be recorded on the database by virtue of paragraph (5)(b) to the database operator of that database.

(8) Where the keeper of a dog to whom paragraph (1) applies becomes aware of the failure of a microchip, the keeper must have the dog implanted with a compliant microchip.

#### **Details to be recorded on databases**

7. The details to be recorded on a database are—

- (a) the full name and address of the keeper of the dog;
- (b) the contact telephone number (if any) of the keeper of the dog;
- (c) the e-mail address (if any) of the keeper of the dog;
- (d) where applicable, the fact that the keeper of the dog is also a breeder;
- (e) where applicable, the fact that the keeper of the dog is a person who holds a breeding licence granted under section 1(2) of the Breeding of Dogs Act 1973(7) and, if so—
  - (i) the name of the local authority which issued the breeder’s licence; and
  - (ii) the breeder’s licence number or code (if any);
- (f) where applicable, the fact that the keeper of the dog is licensed by a local authority under the Licensing of Animal Dealers (Young Cats and Young Dogs) (Scotland) Regulations 2009(8) and, if so—
  - (i) the number of the animal dealing licence (if any); and
  - (ii) the name of the local authority which issued the animal dealing licence;
- (g) the sex of the dog;
- (h) the breed of the dog, or a description if it is a cross-breed;
- (i) the colour of the dog;
- (j) the most accurate estimate of the dog’s date of birth which the keeper of the dog is capable of giving;
- (k) the unique number of the compliant microchip implanted in the dog; and
- (l) where applicable, the name or identification number given to the dog.

#### **Conditions to be met by a database operator**

8.—(1) A database operator must—

- (a) record on its database—

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(7) 1973 c.60.

(8) S.S.I. 2009/141.

- (i) details notified to it by keepers of dogs by virtue of regulations 6 and 10(1); and
  - (ii) data provided to it by virtue of regulation 9(2)(b);
- (b) in relation to a dog, retain the data which it must record by virtue of sub-paragraph (a) in relation to that dog for a period of 30 years from the date of birth, or estimated date of birth, of that dog;
- (c) in relation to retained data, publish its policy on data retention and destruction;
- (d) have sufficient database capacity to store retained data and do so securely;
- (e) have a system whereby retained data can be readily retrieved;
- (f) back up retained data at a secure off-site facility once every 24 hours;
- (g) provide an authorised person with such retained data as is necessary for the performance of the following functions—
  - (i) re-uniting a dog with its keeper; and
  - (ii) the enforcement of these Regulations;
- (h) provide a veterinary surgeon with such retained data as is necessary for the purpose of re-uniting a dog with its keeper;
- (i) provide a person with enforcement functions relating to the welfare of dogs conferred by virtue of any enactment with such retained data as is necessary for the prevention or detection of crime relating to the welfare of dogs;
- (j) provide the current keeper with such retained data requested by the current keeper to the extent that it relates to the current keeper and its dog (not including details on any previous keeper);
- (k) provide a previous keeper with such retained data requested by that keeper to the extent that it relates to that keeper (not including details on any other keeper);
- (l) have a system for identifying—
  - (i) an authorised person;
  - (ii) a person mentioned in sub-paragraph (h) or (i);
  - (iii) the current keeper of a dog; and
  - (iv) any previous keeper of a dog,when such person makes an inquiry about retained data;
- (m) have a system for answering telephone requests for retained data at all times;
- (n) have a system for answering on-line requests for retained data at all reasonable times;
- (o) have a system for redirecting telephone queries relating to dogs whose retained data is recorded on other databases which comply with sub-paragraph (s) to the database operators of those other databases;
- (p) have a system for automatically redirecting on-line requests relating to dogs whose retained data is recorded on other databases which comply with sub-paragraph (s) to the database operators of those other databases;
- (q) have a system for ensuring that, so far as practicable, on recording a change to the keeper of the dog, the former keeper is aware or made aware of the fact a change is taking place;
- (r) maintain sufficient records to demonstrate to the Scottish Ministers that the database operator is complying with the requirements of this regulation;
- (s) make available to other database operators such information as is necessary to allow other database operators to determine which compliant microchip unique numbers relate to dogs whose details are recorded on the database operator's database; and