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The Hunting Bill – version 2

Below is our guide to the Hunting Bill, we have put it into a 'readable' format, it omits some of the clauses so some numbers may be missing however it contains all the relevant details.

(It includes all changes made in the first committee stage and in the report stage on Monday 30th June 2003, but does not include those from the second committee stage - they will be added after that stage is complete. At the bottom is a full list of all amendments made since the original bill.)

A BILL

[As amended on consideration]

To make provision about hunting wild mammals with dogs; to prohibit hare coursing; and for connected purposes.

Presented by Secretary Margaret Beckett
supported by
The Prime Minister, Mr Secretary Prescott,
Mr Chancellor of the Exchequer,
Mr Secretary Blunkett, Mr Secretary Hain and Mr Alun Michael.

Part 1. Offences

1. Hunting wild mammals with dogs

It is illegal to hunt a wild mammal with dogs unless your hunting is registered or your type of hunting is exempt from the Bill.

2. Registered hunting

You are legally allowed to hunt if you have registered your hunting or take part in a hunting group (a hunt) in which one member at least is registered to hunt as part of a group (stating where you hunt and what you are hunting). You can also hunt with a small number of individuals if you or one of them is registered to hunt.

3. Exempt Hunting

Some types of hunting are exempt from registration (these are listed in Schedule 1); the secretary of state can amend the class of exempt hunting.

4. Assisting Hunting

It is illegal to permit your land to be used for illegal (un-registered) hunting; it is also illegal to allow your animals to take part in illegal hunting.

5. Hunting: defence

If you can reasonably prove that you thought the hunt was registered or exempt from the registration process, and you allowed your animals or land to be used, you can be spared prosecution.

6. Foxes

The registration of fox hunts is not permitted therefore fox hunts are illegal.

7. Mink

The registration of mink hunts is not permitted therefore mink hunts are illegal.

8. Deer

Deer hunting cannot be registered - they are illegal under all circumstances, except those listed as exempt hunts, these include stalking & flushing out, recapture and rescue of a wild mammal. (See Schedule 1).

9. Hares

The registration of hare hunts is not permitted therefore hare hunts are illegal.

10. Hare Coursing

A Hare Coursing event is 'a competition in which dogs are, by the use of live hares, assessed as to their skill in hunting hares. It is illegal to take part in hare coursing, to attend a hare coursing event, to knowingly allow a Hare Coursing event to take part on your land, or to give permission for it to take part on your land. It is also illegal if you enter a dog into a Hare Coursing event, if you allow your dog to be entered or if you control or handle a dog for the purpose of an event.

11. Use of dogs below ground (Terrierwork)

The registration of hunts involving dogs underground is not permitted therefore terrierwork is illegal.

Part 2. Registration

12. Tests for registration: Utility (pest control test) & Cruelty ('least suffering').

The Utility test is designed to ensure that hunting the wild mammal prevents it from causing or it reduces the effect of 'serious damage' to: livestock, game birds (with limits), food for livestock, crops (including fruit & veg.), growing timber, fisheries, other property, or the 'biological diversity of an area' (within the meaning of the United Nations Environmental Programme Convention on Biological Diversity of 1992).

The Cruelty test - you must be able to prove that hunting takes place in a way that does not cause significant pain, suffering or distress to the wild mammals to be hunted.

13. The Registrar

The Secretary of State will appoint a registrar. They will hold and vacate office in accordance with the terms and conditions of his appointment, and will comply with regulations made by the Secretary of State and the Hunting Tribunal. They must abide by any decision taken by the Hunting Tribunal.

14. The Hunting Tribunal

This will hear appeals brought by applicants or animal welfare bodies.

15. Animal Welfare bodies

These will oversee the Hunting Tribunal but cannot make decisions or overturn them.

16. Advisory Bodies

English Nature & The Countryside Council for Wales will provide advice to the tribunal and registrar.

17. Application by an individual

An applicant must be at least 16 years old (16-18 year olds must have parent/guardians consent) and specify the 'wild mammals' to be hunted and where they will be hunted. Special conditions can be imposed on a licence.

18. Application on behalf of a group

An individual can register for a whole group or hunt, again they must be at least 16 and specify what is being hunted and where. The licence must include conditions, including stating the maximum number of people allowed on the hunt at any one time, and that the person(s) who applied for the licence are the supervisor(s) of the hunt.

19. Handling

Any information requested by the registrar must be provided before a licence will be granted.

20. Renewal of a licence

An application can only be made once within each 12-month period, unless you apply for a different mammal to be hunted in a different area, for which you do not have to wait.

If there is a change of circumstances you may be able to apply earlier than 12-months.

21. Determination by registrar

When an application for a licence is received, the registrar will ask the animal welfare bodies prescribed to give their opinion on the request. He will then compare the request to the two tests and either grant or refuse the application.

22. Appeals to the Tribunal

When an application is granted, an animal welfare group can appeal to the Tribunal or if an application is refused, the applicant(s) can appeal.

23. Determination by Tribunal

When an appeal is launched, the Tribunal will ask the animal bodies prescribed, to give their opinion on the request. The Tribunal can then either direct the registrar to either grant or reject the licence, or it can impose the decision itself.

24. Appeals from Tribunal

If an applicant or party is not happy with the Tribunal's outcome, they can appeal to the High Court, with or without the Tribunal's permission to do so.

26. Content of the register

The register of hunts (kept by the registrar) will list the animal being hunted under each licence and where that hunting is taking place, it may also contain any conditions attached to the licence.

27. Inspection of the register.

The public will have access to the register and can request a copy of it. Some information however, can be omitted from public view.

28. Standard duration of registration

The standard registration period will be three years, however the registrar can request that that period be shorter.

29. Renewal of registration

Registrations can be renewed up to six months in advance.

31. Automatic condition of individual registration

Individual hunting is subject to automatic conditions which require that reasonable steps must be taken to ensure that: a) an injured or captured wild mammal is killed quickly and humanely; b) any wild mammal which is shot following hunting with dogs is shot by a competent person; and c) the prior permission of the occupier of the land has been obtained for the hunting.

Other conditions require that an inspector from an animal welfare body must be permitted on request to accompany those hunting in order to inspect the hunting. Insurance for loss or damage caused to people other than the registers individual must be in place. Only two other people are allowed to take part in individual hunts.

32. Automatic condition of group registration

The same automatic conditions as above apply to group registration. In addition, a record must be kept of those who take part in each hunt registered under a group licence, reasonable steps must be taken to prevent those who have had registrations cancelled or who have been removed from a group licence within the last three years, from taking part in hunting. Those who have been convicted under this act are also exempt from group hunts.

33. Amendment of automatic conditions

The Secretary of State can add, remove or amend an automatic condition (those above) from registration.

34. Variation of non-automatic condition

An applicant can apply to the registrar to have the conditions that have been imposed on a licence, varied or changed, however this does not apply to the automatic conditions.

35. Appeals to Tribunal

Applicants can appeal to the tribunal and if necessary, the high court if the request to change non-automatic conditions is rejected by the registrar.

36. Group registration: addition or replacement

Someone can apply to be added to a group registration, either as an extra addition or as a replacement for another individual. (The usual application conditions apply).

37. De-Registration: conviction of offence

The registrar may cancel an individual's registration or licence or remove an individual from a group registration if that person is convicted of an offence under this Bill, the Protection of Animals Act 1911 or the Wild Mammals (Protection) Act 1996.

38. De-Registration: general

If a prescribed animal welfare body believes that a condition of registration has been breached or that the cruelty & utility tests are no longer satisfied, then they can apply to the registrar to have a licence cancelled or an individual removed from a licence. A land-owner/land-occupier can apply to have licence revoked or an individual removed from it, if trespassing has occurred on their land for the purpose of hunting.

39. Appeals to Tribunal

Applicants can appeal to the tribunal and if necessary, the high court if they are removed from a licence or a licence is revoked.

42. Failure to keep records

Each registered individual is required to keep a record of each time they hunt, and to keep records of each individual that hunts, these need to be kept for the duration of the licence. It is an offence not to do so. You can use the fact that you thought another registered hunter was keeping the records as your defence.

Part 3. Enforcement

43. Penalty

Anyone found guilty of an offence under the Bill is liable, on conviction, of a fine not exceeding £5000, but not imprisonment.

44. Arrest

This simply gives the power to a police officer to arrest anyone suspected of illegal hunting.

45. Search and Seizure

Police can search and detain you, your vehicle(s) or your animal(s) if they suspect they hold evidence. They can do this without a warrant and can enter land and any premises (except a dwelling), to do it.

46. Forfeiture

This gives courts the power to order forfeiture of a dog or any hunting animal used in hunting or on your possession at the time of your arrest. A vehicle can be seized if you were using it to hunt illegally. Someone, other than yourself who 'has an interest' in either a vehicle, animal or other article can claim them back from forfeiture.

47. Disqualification for registration

If you are convicted under the Hunting Bill, the courts can disqualify you from applying or being registered for a hunting licence. You must be told how long this is to last (this can be life), and you can apply to a magistrates court every year for the disqualification to be lifted.

Part 4. General

49. Interpretation

This clause is designed to define some of the terms:

- 'Wild mammal' includes a wild mammal bred or tamed for any purpose, including those in captivity or confinement, and those which have escaped or been released from captivity or confinement and any mammal living in the wild.
- 'Hunting a wild mammal' includes pursuing a wild mammal, where one or more dogs are involved in that pursuit, whether they are under your control or not.
- Land belongs to a person if they own an interest in it; manage or control it; or occupy it.
- A dog belongs to a person if they own it; are in charge of it; or have control of it.

- An application to the registrar is treated as finally determined when: the registrar has determined the application; it has been withdrawn or abandoned or an appeal to a tribunal has been determined or can no longer be brought, ignoring the possibility of an appeal.

53. Money

The cost of 'running' the licensing scheme will be paid for by Defra, and any fees will be paid into the consolidated fund.

55. Transitional arrangements

This states that you can apply for a licence as soon as the Bill receives Royal Assent and the start of the licence will be when the Bill commences.

Schedules

Schedule 1. Exempt Hunting

- Stalking & Flushing Out, as long as the following conditions are met: it is done to prevent damage to those things listed in item 12, or if it is done to obtain meat for human or other animal consumption. Flushing/Stalking must take place on land that is either owned or belongs to the person doing it, or on land that he has been given permission to use for it. You cannot use more than two dogs, and they cannot go below ground. You must ensure that as soon as possible after the animal is found, that you 'competently' shoot it.

The following four exemptions can take place as long as it is on your land, or on land that you have permission to enter:

- Rattling
- Rabbiting
- Retrieval of hares that have been shot
- Falconry
- Recapture of a wild animal, you must shoot it or recapture it as soon as you find it.
- Rescue of a wild animal, as long as the following conditions are met: you believe the wild mammal is either diseased or injured; that you hunt the mammal to relieve it of its suffering or to treat its disease; the regular land issues; that, as soon as you find the animal it must be shot or treated; and you cannot harm an animal to hunt it.
- Research and Observation, you can hunt a wild mammal if you are observing or studying that wild mammal.

Schedule 2. The Hunting Tribunal

This refers to the composition of the tribunal: the Lord Chancellor shall appoint a President of the Tribunal and a panel of chairmen, and prescribes the legal qualifications required for these posts. A member of the panel of chairmen may be appointed by the Lord Chancellor to act as deputy President. The Lord Chancellor shall appoint a panel of members of the Tribunal: a member must either be a veterinary surgeon or have appropriate experience relating to the welfare of animals or the management of land. The Inquiries Act 1992 is amended to include the Tribunal under the supervision of the Council on Tribunals. The Tribunal must be equally balanced between those in support of hunting and those against.

Schedule 3. Consequential Amendments

- Paragraph 2 amends the Game Licences Act 1860 Section 5. It removes the exceptions concerning deer and hare hunting by dogs and hare coursing.
- Paragraph 3 amends the Protection of Animals Act 1911, Section 1(1) of that Act creates an offence of treating an animal cruelly or causing an animal unnecessary suffering, but section 1(3)(b) provides for an exception for the hunting or coursing of a captive animal. This does not apply to hare coursing or coursing or hunting of a wild mammal.
- Paragraph 4 amends the Protection of Badgers Act 1992, Section 3 currently makes it an offence to interfere with badger setts and section 8(4) to (9) provides an exception to the offence by allowing for the obstruction of a badger sett entrance for the purpose of hunting foxes with hounds provided certain conditions are met. The amendment removes this exception.
- Paragraph 5 amends the Wild Mammals (Protection) Act 1996, currently Section 1 makes it an offence to do certain acts (such as mutilating, kicking and beating) to a wild mammal with intent to inflict unnecessary suffering. Section 2(a), (b) & (d) provides exceptions from this offence in relation to certain acts concerning lawful hunting and coursing, the amendment changes this to state that the hunting of a wild mammal with a dog shall be treated as lawful only if it is registered or exempt hunting within the meaning of the Bill.

This amendment means that the only acts during registered or exempt hunting excepted from the offence in section 1 of the Wild Mammals (Protection) Act 1996 are the attempted mercy killing or the killing in a reasonably swift and humane manner of a wild mammal injured or taken in the hunting and acts done by dogs. No other acts involved in hunting with dogs or hare coursing will be excepted from the offence.

Summary of the Regulatory Impact Assessment

The notes that refer to the Hunting Bill explain that this Bill is designed as a process of deciding the future of hunting as opposed to deciding it now. It states that the impact on businesses and the environment is not possible to predict, but states that in a national capacity, it will have an insignificant or no effect. However, it acknowledges that the ban on deer hunting will have implications on "employment of around 25 full and part time persons."

Financial & Public Service Manpower effects of the Bill

- Defra will absorb the costs of administrating the licensing scheme and the tribunal, with some of the money coming from fees and possible fines.
- Defra will reimburse the Lord Chancellor's Department for the operation of the Tribunal.

The size of the registrar's office and the number of Tribunal panels required will depend on the number of applications for registration and the number of appeals which may need to be heard.

European Convention on Human Rights

The Bill must comply with the Human Rights Act 1998, and it requires the Minister in charge of the Bill to make a statement about the compatibility of the provisions of the Bill with the Convention rights:

Secretary Margaret Beckett made the following statement, as required by the Human Rights Act 1998:

"In my view the provisions of the Hunting Bill are compatible with the Convention rights."

The Commons Committee Amendments

Below are the amendments to the bill that were made during the Commons Committee stage.

Key amendments

Clause 1/8 - Pest control

This amendment makes it clear that registration under the utility test is only possible for pest control.

Clause 8 - Cruelty Test

Strengthens the test to ensure registration is only possible for fox hunting where it is the least cruel method of pest control.

New Clause - Hare Hunting

This amendment bans the registration of hare hunting.

New Clause - Terrierwork

This amendment bans registration of hunting involving the use of dogs underground.

Other amendments that promote animal welfare

Schedule 2 - Tribunal members

This amendment clarifies that the tribunal panel must be balanced.

Clause 16 - Renewal

This amendment prevents new applications being considered until 12 months after the previous one was rejected.

Clause 17, 28, 32, 33 - Disqualifying Offences

This amendment adds to the list of offences for which conviction leads to disqualification of being registered for hunting.

Clause 17, 18, 19 - Conditions

This gives the registrar the power to impose conditions on registrations and the right of appeal against conditions.

Clause 24, 25 - Length of registration

This gives the registrar the discretion to grant a licence for less than 3 years.

Other amendments

Clause 8 - Wild Birds

This amendment adds 'prevention of wild birds' to the list of purposes for which hunting may be registered

Clause 13, 14 25 - Age of Applicant

The age for licence application is reduced from 18 to 16.

The Report Stage Amendments (made on Monday, 30th June 2003)

Below are the amendments to the bill that were made during the Commons Report stage.

Key amendments

New Clause 6 - Foxes

The registration of fox hunts is not permitted therefore fox hunts are illegal.

New Clause 7 - Mink

The registration of mink hunts is not permitted therefore mink hunts are illegal.

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Sources used in the writing of the document

- Defra News Release: 'Hunting Bill Strengthened and clarified in committee - Michael'
- UK Parliament web site: 'The Hunting Bill' & 'The Explanatory Notes'
- Countryside Alliance web site