



Hunting with Dogs (Scotland) Act 2023

2023 asp 1

PART 1

HUNTING A WILD MAMMAL USING A DOG

Exceptions to the offences

3 Exception: management of wild mammals above ground

- (1) This section applies if—
- (a) a person is using a dog above ground to—
 - (i) search for, stalk or flush from cover a wild mammal, with the intention of killing it for one or more of the purposes set out in [subsection \(2\)](#),
 - (ii) search for and retrieve a wild mammal which has been killed as a result of the activity mentioned in [sub-paragraph \(i\)](#), and
 - (b) the conditions set out in [subsection \(3\)](#) are met.
- (2) The purposes referred to in [subsection \(1\)\(a\)\(i\)](#) are—
- (a) preventing serious damage to livestock, woodland or crops,
 - (b) preventing the spread of disease,
 - (c) protecting human health.
- (3) The conditions referred to in [subsection \(1\)\(b\)](#) are that—
- (a) either—
 - (i) the activity mentioned in [subsection \(1\)\(a\)](#) does not involve the use of more than two dogs, or
 - (ii) the activity is carried out in accordance with a licence granted under [section 4](#),
 - (b) any dog used in the activity is under control,
 - (c) unless [paragraph \(a\)\(ii\)](#) applies, reasonable steps are taken to ensure that any dog used in the activity does not join with others to form a pack of more than two dogs,
 - (d) permission for the activity has been given by the owner of the land on which the activity takes place,

Status: Point in time view as at 03/10/2023.

Changes to legislation: There are currently no known outstanding effects for the Hunting with Dogs (Scotland) Act 2023, Cross Heading: Exceptions to the offences. (See end of Document for details)

- (e) the wild mammal which is being searched for, stalked or flushed is shot dead, or killed by a bird of prey, as soon as reasonably possible,
- (f) if an attempt to kill the wild mammal, as mentioned in [paragraph \(e\)](#), results in it being injured but not killed, reasonable steps are taken to kill it in a way (other than by using a dog) that causes it the minimum possible suffering.

Commencement Information

- I1** S. 3 not in force at Royal Assent, see [s. 31\(2\)](#)
- I2** S. 3 in force at 3.10.2023 by [S.S.I. 2023/262](#), [reg. 2](#)

4 Licence for use of more than two dogs in connection with [section 3](#)

- (1) A person may apply for a licence permitting the use of more than two dogs for the activity mentioned in [section 3\(1\)\(a\)](#).
- (2) An application for a licence under [subsection \(1\)](#) must—
 - (a) be made to the relevant authority,
 - (b) be in such form as the relevant authority may require,
 - (c) contain or be accompanied by such information as the relevant authority may require, which may in particular include—
 - (i) the number of dogs for which permission is being sought,
 - (ii) the number of guns intended to be deployed,
 - (d) be accompanied by payment of such reasonable fee as the relevant authority may require.
- (3) The relevant authority must publicise any requirements which are for the time being set under [subsection \(2\)\(b\), \(c\) or \(d\)](#).
- (4) A licence under [subsection \(1\)](#)—
 - (a) may be granted to a particular person or to a category of persons,
 - (b) must relate to a particular species of wild mammal,
 - (c) must not be granted unless the relevant authority is satisfied that there is no other solution which would be effective in achieving the purpose set out in [section 3\(2\)](#) in relation to which the application for a licence is being made,
 - (d) may only permit the use of the minimum number of dogs which the relevant authority is satisfied would be effective in achieving the purpose set out in [section 3\(2\)](#) in relation to which the application for a licence is being made,
 - (e) must require the deployment of the minimum number of guns which the relevant authority is satisfied would be effective for compliance with the conditions set out in [section 3\(3\)\(e\) and \(f\)](#) in relation to the activity for which the application for a licence is being made,
 - (f) may be subject to compliance with such conditions as the relevant authority considers appropriate, which may include, in particular, reporting requirements in relation to activities carried out under the licence,
 - (g) may be granted for a maximum period of 14 days, which must fall within a period of 6 consecutive months,
 - (h) may be modified or revoked by the relevant authority at any time.
- (5) A licence under [subsection \(1\)](#) must specify—

Status: Point in time view as at 03/10/2023.

Changes to legislation: There are currently no known outstanding effects for the Hunting with Dogs (Scotland) Act 2023, Cross Heading: Exceptions to the offences. (See end of Document for details)

- (a) the person or category of persons to whom it is granted,
 - (b) the species of wild mammal to which it relates,
 - (c) the area within which the searching for, stalking or flushing of that species of wild mammal may take place under the licence,
 - (d) the maximum number of dogs which are permitted to be used,
 - (e) the minimum number of guns (if any) which are required to be deployed,
 - (f) any conditions to which the licence is subject,
 - (g) the period of time for which the licence is valid.
- (6) In this section, “relevant authority” means—
- (a) the Scottish Ministers, or
 - (b) where the Scottish Ministers have delegated their functions in relation to licences, Scottish Natural Heritage.

Commencement Information

I3 S. 4 not in force at Royal Assent, see [s. 31\(2\)](#)

I4 S. 4 in force at 3.10.2023 by [S.S.I. 2023/262](#), [reg. 2](#)

5 Exception: management of foxes below ground

- (1) This section applies if—
- (a) a person is using a dog to—
 - (i) search for a fox below ground, or
 - (ii) flush a fox from below ground,with the intention of killing it for one or more of the purposes set out in [subsection \(2\)](#), and
 - (b) the conditions set out in [subsection \(3\)](#) are met.
- (2) The purposes referred to in [subsection \(1\)\(a\)](#) are—
- (a) preventing serious damage to livestock, woodland or crops,
 - (b) preventing the spread of disease,
 - (c) protecting human health,
 - (d) relieving the suffering of an injured or dependent fox.
- (3) The conditions referred to in [subsection \(1\)\(b\)](#) are that—
- (a) the activity mentioned in [subsection \(1\)\(a\)](#) does not involve the use of more than one dog,
 - (b) the dog used in the activity is—
 - (i) under control,
 - (ii) fitted with a device to allow tracking of the position of the dog below ground,
 - (c) reasonable steps are taken—
 - (i) to prevent the dog becoming trapped below ground, and
 - (ii) if the dog becomes trapped below ground, to ensure that it is rescued as soon as reasonably possible,
 - (d) permission for the activity has been given by the owner of the land on which the activity takes place,

Status: Point in time view as at 03/10/2023.

Changes to legislation: There are currently no known outstanding effects for the Hunting with Dogs (Scotland) Act 2023, Cross Heading: Exceptions to the offences. (See end of Document for details)

- (e) no steps are taken to prevent the fox from being flushed or emerging from below ground,
 - (f) if the fox which is being searched for or flushed is found or emerges from below ground, it is shot dead, or killed by a bird of prey, as soon as reasonably possible,
 - (g) if an attempt to kill the fox, as mentioned in [paragraph \(f\)](#), results in it being injured but not killed, reasonable steps are taken to kill it in a way (other than by using a dog) that causes it the minimum possible suffering.
- (4) In this section, “dependent” means that the mother of a fox is dead and it is too young to survive on its own.

Commencement Information

- I5** S. 5 not in force at Royal Assent, see [s. 31\(2\)](#)
I6 S. 5 in force at 3.10.2023 by [S.S.I. 2023/262](#), [reg. 2](#)

6 Exception: falconry, game shooting and deer stalking

- (1) This section applies if—
- (a) a person is using a dog above ground to—
 - (i) search for, stalk or flush from cover a wild mammal, with the intention of providing quarry for falconry, game shooting or deer stalking,
 - (ii) search for and retrieve a wild mammal which has been killed as a result of the activity mentioned in [sub-paragraph \(i\)](#), and
 - (b) the conditions set out in [subsection \(2\)](#) are met.
- (2) The conditions referred to in [subsection \(1\)\(b\)](#) are that—
- (a) the activity mentioned in [subsection \(1\)\(a\)](#) does not involve the use of more than two dogs,
 - (b) any dog used in the activity is under control,
 - (c) reasonable steps are taken to ensure that any dog used in the activity does not join with others to form a pack of more than two dogs,
 - (d) permission for the activity has been given by the owner of the land on which the activity takes place,
 - (e) the wild mammal which is being searched for, stalked or flushed is shot dead, or killed by a bird of prey, as soon as reasonably possible,
 - (f) if an attempt to kill the wild mammal, as mentioned in [paragraph \(e\)](#), results in it being injured but not killed, reasonable steps are taken to kill it in a way (other than by using a dog) that causes it the minimum possible suffering.
- (3) In this section—
- “deer stalking” means the stealthy approach of a deer in order to shoot it for sport,
 - “falconry” means the use of a bird of prey to hunt for sport,
 - “game shooting” means shooting wild mammals for sport,
 - “quarry” means the wild mammal intended to be killed by a bird of prey or shot.

Commencement Information

- I7** S. 6 not in force at Royal Assent, see [s. 31\(2\)](#)

Status: Point in time view as at 03/10/2023.

Changes to legislation: There are currently no known outstanding effects for the Hunting with Dogs (Scotland) Act 2023, Cross Heading: Exceptions to the offences. (See end of Document for details)

18 S. 6 in force at 3.10.2023 by S.S.I. 2023/262, reg. 2

7 Exception: relieving the suffering of injured wild mammals

- (1) This section applies if—
- (a) a person is using a dog above ground to search for, stalk or flush from cover a wild mammal which the person has reasonable grounds for believing is injured, with the intention of treating, capturing or killing it for the purpose of relieving its suffering,
 - (b) the wild mammal was not deliberately injured for the purpose of allowing the activity mentioned in paragraph (a) to take place, and
 - (c) the conditions set out in subsection (2) are met.
- (2) The conditions referred to in subsection (1)(c) are that—
- (a) the activity mentioned in subsection (1)(a) does not involve the use of more than two dogs,
 - (b) any dog used in the activity is under control,
 - (c) reasonable steps are taken to ensure that any dog used in the activity does not join with others to form a pack of more than two dogs,
 - (d) either—
 - (i) permission for the activity has been given by the owner of the land on which the activity takes place,
 - (ii) the person carrying out the activity is a constable exercising a power of entry,
 - (iii) the person carrying out the activity is exercising a power of entry under section 14M or 14N of the Wildlife and Countryside Act 1981, or
 - (iv) the person carrying out the activity is exercising a power of entry under section 15 of the Deer (Scotland) Act 1996,
 - (e) the wild mammal which is being searched for, stalked or flushed is, as soon as reasonably possible, either—
 - (i) given treatment to reduce or alleviate its pain or discomfort before being allowed to escape without being pursued or killed,
 - (ii) captured for the purpose of being given treatment to reduce or alleviate its pain or discomfort (whether at that place or at another place),
 - (iii) shot dead, or
 - (iv) observed and allowed to escape without being pursued or killed,
 - (f) if an attempt to kill the wild mammal, as mentioned in paragraph (e)(iii), results in it being injured but not killed, reasonable steps are taken to kill it in a way (other than by using a dog) that causes it the minimum possible suffering.

Commencement Information

I9 S. 7 not in force at Royal Assent, see s. 31(2)

I10 S. 7 in force at 3.10.2023 by S.S.I. 2023/262, reg. 2

Status: Point in time view as at 03/10/2023.

Changes to legislation: There are currently no known outstanding effects for the Hunting with Dogs (Scotland) Act 2023, Cross Heading: Exceptions to the offences. (See end of Document for details)

8 Exception: searching for dead wild mammals

- (1) This section applies if—
- (a) a person is using a dog above ground to search for and retrieve a dead wild mammal, and
 - (b) the conditions set out in subsection (2) are met.
- (2) The conditions referred to in subsection (1)(b) are that—
- (a) the activity mentioned in subsection (1)(a) does not involve the use of more than two dogs,
 - (b) any dog used in the activity is under control,
 - (c) reasonable steps are taken to ensure that any dog used in the activity does not join with others to form a pack of more than two dogs,
 - (d) either—
 - (i) permission for the activity has been given by the owner of the land on which the activity takes place,
 - (ii) the person carrying out the activity is a constable exercising a power of entry,
 - (iii) the person carrying out the activity is exercising a power of entry under section 14M or 14N of the Wildlife and Countryside Act 1981, or
 - (iv) the person carrying out the activity is exercising a power of entry under section 15 of the Deer (Scotland) Act 1996,
 - (e) reasonable steps are taken to ensure that no wild mammal is pursued, injured or killed.

Commencement Information

I11 S. 8 not in force at Royal Assent, see **s. 31(2)**

I12 S. 8 in force at 3.10.2023 by **S.S.I. 2023/262, reg. 2**

9 Exception: environmental benefit

- (1) This section applies if—
- (a) the person is using a dog above ground to—
 - (i) search for, stalk or flush from cover a wild mammal, with the intention of killing, capturing or observing it as part of a scheme or plan for one or more of the purposes set out in [subsection \(2\)](#),
 - (ii) search for and retrieve a wild mammal which has been killed as a result of the activity referred to in [sub-paragraph \(i\)](#), and
 - (b) the conditions set out in [subsection \(3\)](#) are met.
- (2) The purposes referred to in [subsection \(1\)\(a\)\(i\)](#) are—
- (a) preserving, protecting or restoring a particular species (which may include controlling the number of a species for its welfare) for environmental benefit,
 - (b) preserving, protecting or restoring the diversity of animal or plant life,
 - (c) eradicating an invasive non-native species of wild mammal from an area.
- (3) The conditions referred to in [subsection \(1\)\(b\)](#) are that—
- (a) either—

Status: Point in time view as at 03/10/2023.

Changes to legislation: There are currently no known outstanding effects for the Hunting with Dogs (Scotland) Act 2023, Cross Heading: Exceptions to the offences. (See end of Document for details)

- (i) the activity mentioned in [subsection \(1\)\(a\)](#) does not involve the use of more than two dogs, or
 - (ii) the activity is carried out in accordance with a licence granted under [section 10](#),
 - (b) any dog used in the activity is under control,
 - (c) unless [paragraph \(a\)\(ii\)](#) applies, reasonable steps are taken to ensure that any dog used in the activity does not join with others to form a pack of more than two dogs,
 - (d) either—
 - (i) permission for the activity has been given by the owner of the land on which the activity takes place,
 - (ii) the person carrying out the activity is exercising a power of entry under section 14M or 14N of the Wildlife and Countryside Act 1981, or
 - (iii) the person carrying out the activity is exercising a power of entry under section 15 of the Deer (Scotland) Act 1996,
 - (e) the wild mammal which is being searched for, stalked or flushed is either—
 - (i) captured (whether or not with the intention of subsequently releasing or relocating it) as soon as reasonably possible,
 - (ii) shot dead, or killed by a bird of prey, as soon as reasonably possible, or
 - (iii) observed and allowed to escape without being pursued, injured or killed,
 - (f) if an attempt to kill the wild mammal, as mentioned in [paragraph \(e\)\(ii\)](#), results in it being injured but not killed, reasonable steps are taken to kill it in a way (other than by using a dog) that causes it the minimum possible suffering.
- (4) In this section—
 - “invasive non-native species” means a species—
 - (a) which is included on the Scottish list of species of special concern, or
 - (b) which is—
 - (i) not native to the area in which the activity mentioned in [subsection \(1\)\(a\)](#) takes place, and
 - (ii) having or likely to have a significant adverse impact on biodiversity, the environment, social or economic interests or human or animal health,
 - “Scottish list of species of special concern” means the list of species in the Annex to [Commission Implementing Regulation \(EU\) 2016/1141](#) adopting a list of invasive alien species of Union concern pursuant to [Regulation \(EU\) No 1143/2014](#) of the European Parliament and of the Council, as amended from time to time.

Commencement Information

I13 S. 9 not in force at Royal Assent, see [s. 31\(2\)](#)

I14 S. 9 in force at 3.10.2023 by [S.S.I. 2023/262](#), [reg. 2](#)

Status: Point in time view as at 03/10/2023.

Changes to legislation: There are currently no known outstanding effects for the Hunting with Dogs (Scotland) Act 2023, Cross Heading: Exceptions to the offences. (See end of Document for details)

10 Licence for use of more than two dogs in connection with [section 9](#)

- (1) A person may apply for a licence permitting the use of more than two dogs for the activity mentioned in [section 9\(1\)\(a\)](#).
- (2) An application for a licence under [subsection \(1\)](#) must—
 - (a) be made to the relevant authority,
 - (b) be in such form as the relevant authority may require,
 - (c) contain or be accompanied by such information as the relevant authority may require, which may in particular include—
 - (i) the number of dogs for which permission is being sought,
 - (ii) the number of guns intended to be deployed,
 - (d) be accompanied by payment of such reasonable fee as the relevant authority may require.
- (3) The relevant authority must publicise any requirements which are for the time being set under [subsection \(2\)\(b\), \(c\) or \(d\)](#).
- (4) A licence under [subsection \(1\)](#)—
 - (a) may be granted to a particular person or to a category of persons,
 - (b) must relate to a particular species of wild mammal,
 - (c) must not be granted unless the relevant authority is satisfied—
 - (i) that killing, capturing or observing the wild mammal will contribute towards a significant or long-term environmental benefit, and
 - (ii) that there is no other solution which would be effective in achieving the purpose set out in [section 9\(2\)](#) in relation to which the application for a licence is being made,
 - (d) may only permit the use of the minimum number of dogs which the relevant authority is satisfied would be effective in achieving the purpose set out in [section 9\(2\)](#) in relation to which the application for a licence is being made,
 - (e) must require the deployment of the minimum number of guns which the relevant authority is satisfied would be effective for compliance with the conditions set out in [section 9\(3\)\(e\) and \(f\)](#) in relation to the activity for which the application for a licence is being made,
 - (f) may be subject to compliance with such conditions as the relevant authority considers appropriate, which may include, in particular, reporting requirements in relation to activities carried out under the licence,
 - (g) may be granted for a maximum period of two years, which must fall within a period of two consecutive years,
 - (h) may be modified or revoked at any time by the relevant authority.
- (5) A licence under [subsection \(1\)](#) must specify—
 - (a) the person or category of persons to whom it is granted,
 - (b) the species of wild mammal to which it relates,
 - (c) the area within which the searching for, stalking or flushing of that species of wild mammal may take place under the licence,
 - (d) the maximum number of dogs which are permitted to be used,
 - (e) the minimum number of guns (if any) which are required to be deployed,
 - (f) any conditions to which the licence is subject,
 - (g) the period of time for which the licence is valid.

Status: Point in time view as at 03/10/2023.

Changes to legislation: *There are currently no known outstanding effects for the Hunting with Dogs (Scotland) Act 2023, Cross Heading: Exceptions to the offences. (See end of Document for details)*

(6) In this section, “relevant authority” has the same meaning as in [section 4\(6\)](#).

Commencement Information

- I15** S. 10 not in force at Royal Assent, see [s. 31\(2\)](#)
I16 [S. 10](#) in force at 3.10.2023 by [S.S.I. 2023/262](#), [reg. 2](#)

Status:

Point in time view as at 03/10/2023.

Changes to legislation:

There are currently no known outstanding effects for the Hunting with Dogs (Scotland) Act 2023, Cross Heading: Exceptions to the offences.