



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,

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- (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—

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- (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,

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- (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\(2\)](#)

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

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—

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- (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](#)

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.

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\(6\)](#).

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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](#)

Changes to legislation:

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