



Hunting with Dogs (Scotland) Act 2023

2023 asp 1

PART 1

HUNTING A WILD MAMMAL USING A DOG

Exceptions to the offences

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,

*Changes to legislation: There are currently no known outstanding effects for the
Hunting with Dogs (Scotland) Act 2023, Section 5. (See end of Document for details)*

- (d) permission for the activity has been given by the owner of the land on which the activity takes place,
 - (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

- I1** S. 5 not in force at Royal Assent, see [s. 31\(2\)](#)
- I2** [S. 5](#) 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*, Section 5.