

# HUNTING ACT 2004

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## EXPLANATORY NOTES

### SCHEDULES

#### *Schedule 1: Exempt hunting*

##### **Use of dogs below ground to protect birds for shooting**

28. *Paragraph 2* sets out the limited circumstances in which a dog may be used below ground to stalk or flush out a wild mammal without the commission of an offence under *section 1*. This provision should be read with *paragraph 1*.
29. The first condition in *sub-paragraph (2)* is that the stalking or flushing out is undertaken for the purpose of preventing or reducing serious damage to game birds or wild birds which are being kept or preserved for shooting. Game birds and wild birds are defined by reference to section 27 of the Wildlife and Countryside Act 1981 (see paragraph 22 above).
30. The second condition in *sub-paragraph (3)* requires the person doing the stalking or flushing out to carry written evidence either that the relevant land belongs to him or that he has been given permission to use it for that purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs. This evidence must be shown to a police constable immediately on request.
31. The third condition in *sub-paragraph (4)* is that only one dog is used below ground at any time to stalk or flush out a wild mammal.
32. The fourth condition in *sub-paragraph (5)* requires that:
- reasonable steps are taken to ensure that as soon as possible after being found the wild mammal is flushed out from below ground;
  - reasonable steps are taken to ensure that as soon as possible after being flushed out from below ground the wild mammal is shot dead by a competent person;
  - the dog used is brought under sufficiently close control to ensure that it does not prevent or obstruct the shooting of the wild mammal;
  - reasonable steps are taken to prevent injury to the dog; and
  - the dog is used in compliance with any code of practice which is issued or approved by the Secretary of State for the purpose of this exemption.

These conditions replace those applicable under *paragraph 1(7)* to stalking and flushing out not involving the use of a dog below ground.