

Draft Order laid before Parliament under section 14(b) of the Hunting Act 2004 (c. 37), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2015 No. 0000

ANIMALS, ENGLAND AND WALES

**The Hunting Act 2004 (Exempt
Hunting) (Amendment) Order 2015**

Made - - - - *2015*

Coming into force in accordance with article 1(b)

The Secretary of State, in exercise of the powers conferred by sections 2(2) and 14(c) and (d) of the Hunting Act 2004⁽¹⁾ and section 28(2)(a) of the Small Business, Enterprise and Employment Act 2015⁽²⁾, makes the following Order.

In accordance with section 14(b) of the Hunting Act 2004, a draft of this instrument has been laid before and approved by resolution of each House of Parliament.

Citation and commencement

1. This Order —
 - (a) may be cited as the Hunting Act 2004 (Exempt Hunting) (Amendment) Order 2015; and
 - (b) comes into force on the day after the day on which it is made.

Amendment of Schedule 1 to the Hunting Act 2004

2. Schedule 1 (exempt hunting) to the Hunting Act 2004 is amended in accordance with articles 3 to 6.

Stalking and flushing out

3. In paragraph 1 (stalking and flushing out), for sub-paragraph (5) substitute—
 - “(5) The third condition is that the number of dogs used—
 - (a) is appropriate, having regard to the terrain and any other relevant circumstances, and
 - (b) enables the stalking or flushing out to be carried out as efficiently as possible.”.

(1) 2004 c. 37.
(2) 2015 c. 26.

Use of dogs below ground to protect livestock, or birds for shooting

4. For the heading to paragraph 2 (use of dogs below ground to protect birds for shooting) substitute “*Use of dogs below ground to protect livestock, or birds for shooting*”, and for sub-paragraphs (2) and (3) of that paragraph substitute—

“(2) The first condition is that the stalking or flushing out is undertaken for the purpose of preventing or reducing serious damage to—

- (a) livestock, or
- (b) game birds or wild birds (within the meaning of section 27 of the Wildlife and Countryside Act 1981 (c. 69)) which a person is keeping or preserving for the purpose of their being shot.

(3) The second condition is that, if a constable asks the person doing the stalking or flushing out to produce the evidence mentioned in sub-paragraph (3A), the person either—

- (a) makes the evidence immediately available for inspection by the constable, or
- (b) before the end of the period of 7 days beginning with the date on which the request is made or as soon as is reasonably practicable, produces the evidence, in person, at a police station specified by the person at the time the request is made.

(3A) The evidence is written evidence—

- (a) that the land on which the stalking or flushing out takes place belongs to the person doing the stalking or flushing out, or
- (b) that that person has been given permission to use that land for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs.”.

Rescue of wild mammal

5. In paragraph 8 (rescue of wild mammal)—

- (a) in sub-paragraph (2), at the end insert “or diseased”; and
- (b) for sub-paragraph (4) substitute—

“(4) The third condition is that the number of dogs used—

- (a) is appropriate, having regard to the terrain and any other relevant circumstances, and
- (b) enables the hunting to be carried out as efficiently as possible.”.

Research and observation

6. In paragraph 9 (research and observation), for sub-paragraph (3) substitute—

“(3) The second condition is that the number of dogs used—

- (a) is appropriate, having regard to the terrain and any other relevant circumstances, and
- (b) enables the hunting to be carried out as efficiently as possible.”.

Duty to review

7.—(1) The Secretary of State must from time to time—

- (a) carry out a review of articles 2 to 6;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

- (2) The report must, in particular—
 - (a) set out the objectives intended to be achieved by the regulatory provision made in those articles;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (3) The first report under this article must be published before the end of the period of five years beginning with the day on which this Order comes into force.
- (4) Subsequent reports must be published at intervals not exceeding five years.

Date

Name
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under sections 2(2) and 14(c) and (d) of the Hunting Act 2004 (c. 37) and section 28(2)(a) of the Small Business, Enterprise and Employment Act 2015 (c. 26).

The Hunting Act 2004 makes it an offence to hunt a wild mammal with a dog, unless the hunting is within a class of exempt hunting specified in Schedule 1 to that Act.

This Order amends Schedule 1 so as to vary certain classes of exempt hunting, as follows—

in paragraphs 1 (stalking and flushing out), 8 (rescue of wild mammal) and 9 (research and observation) of that Schedule, by providing that the number of dogs which may be used is to be that which is appropriate to the terrain and any other relevant circumstance, and which enables the activity to be carried out as efficiently as possible (*articles 3, 5(b) and 6*); the description of wild mammal that may be hunted under paragraph 8 is now extended to include any which the hunter reasonably believes is or may be diseased (*article 5(a)*); and

in paragraph 2 (use of dogs below ground to protect birds for shooting) of that Schedule, by adding the protection of livestock as a purpose for which that exemption applies, and by providing that the existing requirement to make available, to a constable who asks to see it, written evidence of a person's right to be on land where the activity takes place, may now be fulfilled, if not immediately, then by the person's producing such evidence at a police station specified by him within seven days or as soon as is reasonably practicable (*article 4*).

As required by section 28(2)(a) of the Small Business, Enterprise and Employment Act 2015 (c. 26) the Order requires the Secretary of State to review the operation and effect of this Order and publish a report within five years after it comes into force and within every five years after that (*article 7*). Following a review it will fall to the Secretary of State to consider whether the Order should remain as it is, or be revoked or be amended. A further instrument would be needed to revoke the Order or to amend it.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.