



# Deer Act 1991

## 1991 CHAPTER 54

### *Offences relating to deer*

#### **1 Poaching of deer.**

- (1) Subject to subsection (3) below, if any person enters any land without the consent of the owner or occupier or other lawful authority in search or pursuit of any deer with the intention of taking, killing or injuring it, he shall be guilty of an offence.
- (2) Subject to subsection (3) below, if any person while on any land—
  - (a) intentionally takes, kills or injures, or attempts to take, kill or injure, any deer,
  - (b) searches for or pursues any deer with the intention of taking, killing or injuring it, or
  - (c) removes the carcase of any deer,without the consent of the owner or occupier of the land or other lawful authority, he shall be guilty of an offence.
- (3) A person shall not be guilty of an offence under subsection (1) or subsection (2) above by reason of anything done in the belief that—
  - (a) he would have the consent of the owner or occupier of the land if the owner or occupier knew of his doing it and the circumstances of it; or
  - (b) he has other lawful authority to do it.
- (4) If any authorised person suspects with reasonable cause that any person is committing or has committed an offence under subsection (1) or subsection (2) above on any land, he may require that person—
  - (a) to give his full name and address; and
  - (b) to quit that land forthwith;and any person who fails to comply with a requirement under this subsection shall be guilty of an offence.
- (5) In subsection (4) above “authorised person”, in relation to any land, means the owner or occupier of the land or any person authorised by the owner or occupier, and includes any person having the right to take or kill deer on the land.

*Status: Point in time view as at 27/03/2002.*

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## 2 Taking or killing of certain deer in close season.

- (1) Subject to sections 6 to 8 below and to subsection (3) below, if any person takes or intentionally kills any deer of a species and description mentioned in Schedule 1 to this Act during the prescribed close season, he shall be guilty of an offence.
- (2) The prescribed close season, in relation to a particular deer, is the close season prescribed by Schedule 1 to this Act in relation to deer of that species and description.
- (3) Where—
  - (a) any person, by way of business, keeps deer on land enclosed by a deer-proof barrier for the production of meat or other foodstuffs or skins or other by-products, or as breeding stock, and
  - (b) those deer are conspicuously marked in such a way as to identify them as deer kept by that person as mentioned in the preceding paragraph,
 the killing of any of those deer by that person, or by any servant or agent of that person authorised by him for the purpose, shall not constitute an offence under this section.
- (4) The Secretary of State may by order amend Schedule 1 to this Act by the addition of any species not mentioned in that Schedule and of a close season for any description of deer of that species, or by varying or deleting any such addition.
- (5) Before making any order under subsection (4) above the Secretary of State shall consult any organisations that appear to him to represent persons likely to be interested in or affected by the order.

### Modifications etc. (not altering text)

C1 S. 2: Functions transferred (W.) (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1

## 3 Taking or killing of deer at night.

Subject to sections 6 and 8 below, if any person takes or intentionally kills any deer between the expiry of the first hour after sunset and the beginning of the last hour before sunrise, he shall be guilty of an offence.

## 4 Use of prohibited weapons and other articles.

- (1) Subject to sections 6 and 8 below, if any person—
  - (a) sets in position any article which is a trap, snare, or poisoned or stupefying bait and is of such a nature and so placed as to be calculated to cause bodily injury to any deer coming in contact with it, or
  - (b) uses for the purpose of taking or killing any deer any trap, snare or poisoned or stupefying bait, or any net,
 he shall be guilty of an offence.
- (2) Subject to sections 6 to 8 below, if any person uses for the purpose of taking or killing or injuring any deer—
  - (a) any firearm or ammunition mentioned in Schedule 2 to this Act,
  - (b) any arrow, spear or similar missile, or
  - (c) any missile, whether discharged from a firearm or otherwise, carrying or containing any poison, stupefying drug or muscle-relaxing agent,

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he shall be guilty of an offence.

- (3) The Secretary of State may by order amend Schedule 2 to this Act by adding any firearm or ammunition or by altering the description of, or deleting, any firearm or ammunition for the time being mentioned in that Schedule.
- (4) Subject to subsection (5) below, if any person—
  - (a) discharges any firearm, or projects any missile, from any mechanically propelled vehicle at any deer, or
  - (b) uses any mechanically propelled vehicle for the purpose of driving deer,he shall be guilty of an offence.
- (5) An act which, apart from this subsection, would constitute an offence under subsection (4) above shall not constitute such an offence if it is done—
  - (a) by, or with the written authority of, the occupier of any enclosed land where deer are usually kept; and
  - (b) in relation to any deer on that land.

## **5 Attempts to commit certain offences, etc.**

- (1) Any person who attempts to commit an offence under any of sections 2 to 4 above shall be guilty of an offence.
- (2) If any person, for the purpose of committing an offence under any of sections 2 to 4 above, has in his possession—
  - (a) any article the use of which is prohibited by section 4(1)(b), section 4(2)(b) or section 4(2)(c) above, or
  - (b) any firearm or ammunition,he shall be guilty of an offence.

## **6 General exceptions to certain provisions of this Act.**

- (1) Nothing in section 2 or section 3 above shall make unlawful anything done in pursuance of a requirement by the Minister of Agriculture, Fisheries and Food under section 98 of the <sup>M1</sup>Agriculture Act 1947.
- (2) A person shall not be guilty of an offence under section 2 or section 3 above by reason of any act done for the purpose of preventing the suffering of an injured or diseased deer.
- (3) A person shall not be guilty of an offence under section 4(1)(a) or section 4(1)(b) above by reason of setting in position, or using, any trap or net for the purpose of preventing the suffering of an injured or diseased deer.
- (4) A person shall not be guilty of an offence under section 4(2)(a) above by reason of the use of any smooth-bore gun for the purpose of killing any deer if he shows that the deer had been so seriously injured otherwise than by his unlawful act, or was in such a condition, that to kill it was an act of mercy.
- (5) A person shall not be guilty of an offence under section 4(2)(a) above by reason of the use as a slaughtering instrument, for the purpose of killing any deer, of a smooth-bore gun which—
  - (a) is of not less gauge than 12 bore;

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- (b) has a barrel less than 24 inches (609.6 millimetres) in length; and
- (c) is loaded with a cartridge purporting to contain shot none of which is less than .203 inches (5.16 millimetres) in diameter (that is to say, size AAA or any larger size).

#### Marginal Citations

M1 1947 c. 48.

### 7 Exceptions for occupiers etc. of land where deer are.

- (1) Subject to subsection (3) below, a person to whom this section applies shall not be guilty of an offence under section 2 above by reason of—
  - (a) the taking or killing of any deer by means of shooting, or
  - (b) the injuring of any deer by means of shooting in an attempt to take or kill it, on any cultivated land, pasture or enclosed woodland.
- (2) Subject to subsection (3) below, a person to whom this section applies shall not be guilty of an offence under section 4(2)(a) above by reason of the use, for the purpose of taking or killing any deer on any land, of any smooth-bore gun of not less gauge than 12 bore which is loaded with—
  - (a) a cartridge containing a single non-spherical projectile weighing not less than 22.68 grammes (350 grains); or
  - (b) a cartridge purporting to contain shot each of which is .203 inches (5.16 millimetres) in diameter (that is to say, size AAA).
- (3) A person to whom this section applies shall not be entitled to rely on the defence provided by subsection (1) or subsection (2) above as respects anything done in relation to any deer on any land unless he shows that—
  - (a) he had reasonable grounds for believing that deer of the same species were causing, or had caused, damage to crops, vegetables, fruit, growing timber or any other form of property on the land;
  - (b) it was likely that further damage would be so caused and any such damage was likely to be serious; and
  - (c) his action was necessary for the purpose of preventing any such damage.
- (4) The persons to whom this section applies are—
  - (a) the occupier of the land on which the action is taken;
  - (b) any member of the occupier's household normally resident on the occupier's land, acting with the written authority of the occupier;
  - (c) any person in the ordinary service of the occupier on the occupier's land, acting with the written authority of the occupier; and
  - (d) any person having the right to take or kill deer on the land on which the action is taken or any person acting with the written authority of a person having that right.
- (5) The Secretary of State and the agriculture Minister acting jointly may by order, either generally or in relation to any area or any species and description of deer specified in the order,—

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- (a) repeal subsection (2) above or amend it by adding any firearm or ammunition or by altering the description of, or deleting, any firearm or ammunition for the time being mentioned in it;
  - (b) amend subsection (3) above by adding any further conditions which must be satisfied or by varying or deleting any conditions so added.
- (6) Before making any order under subsection (5) above the Secretary of State and the agriculture Minister shall consult organisations that appear to them to represent persons likely to be interested in or affected by the order.
- (7) In this section “agriculture Minister” means—
- (a) in relation to England, the [<sup>F1</sup>Secretary of State]; and
  - (b) in relation to Wales, the Secretary of State.

#### Textual Amendments

**F1** Words in s. 7(7)(a) substituted (27.3.2002) by [The Ministry of Agriculture, Fisheries and Food \(Dissolution\) Order 2002 \(S.I. 2002/794\)](#), art. 1(2), [Sch. 1 para. 34](#) (with arts. 5(3), 6)

#### Modifications etc. (not altering text)

**C2** S. 7: Functions transferred (W.) (1.7.1999) by [S.I. 1999/672](#), art. 2, [Sch. 1](#)

## 8 Exceptions for persons licensed by [<sup>F2</sup>English Nature] or the Countryside Council for Wales.

- (1) A licence may be granted to any person by [<sup>F3</sup>English Nature] exempting that person, and any persons acting with his written authority, from sections 2 to 4 above in respect of any of the acts specified in subsection (3) below which are done in England for the purpose of removing deer from one area to another or of taking deer alive for scientific or educational purposes.
- (2) A licence may be granted to any person by the Countryside Council for Wales exempting that person, and any persons acting with his written authority, from sections 2 to 4 above in respect of any of the acts specified in subsection (3) below which are done in Wales for the purpose of removing deer from one area to another or of taking deer alive for scientific or educational purposes.
- (3) The acts referred to in subsections (1) and (2) above are—
  - (a) using any net, trap, stupefying drug or muscle-relaxing agent of a type authorised by the licence;
  - (b) using any missile carrying or containing such stupefying drug or muscle-relaxing agent and discharging any such missile by any means authorised by the licence.
- (4) A licence granted under subsection (1) above may be revoked at any time by [<sup>F3</sup>English Nature] and a licence granted under subsection (2) above may be revoked at any time by the Countryside Council for Wales; and a licence granted under either of those subsections may be granted subject to conditions.
- (5) Without prejudice to any other liability to a penalty which he may have incurred under this or any other Act, any person who contravenes or fails to comply with any condition imposed on the grant of a licence under subsection (1) or subsection (2) above shall be guilty of an offence.

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### Textual Amendments

- F2** Words in sidenote in s. 8 substituted (30.1.2001) by virtue of 2000 c. 37, ss. 73(4), 103(2), **Sch. 8 para. 1(o)**
- F3** Words in s. 8 substituted (30.1.2001) by 2000 c. 37, ss. 73(4), 103(2), **Sch. 8 para. 1(o)**

## 9 Penalties for offences relating to deer.

- (1) Subject to subsection (2) below, a person guilty of an offence under any of the preceding provisions of this Act shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding three months or to both.
- (2) Where an offence under any of the preceding provisions of this Act was committed in respect of more than one deer the maximum fine which may be imposed under subsection (1) above shall be determined as if the person convicted had been convicted of a separate offence in respect of each deer.

*Offences relating to venison etc.*

## 10 Offences relating to sale and purchase etc. of venison.

- (1) If any person who is not a licensed game dealer—
  - (a) at any time during the prohibited period sells or offers or exposes for sale, or has in his possession for sale, any venison to which this paragraph applies, or
  - (b) at any time sells or offers or exposes for sale any venison otherwise than to a licensed game dealer,
 he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Paragraph (a) of subsection (1) above applies to any venison which comes from a deer of a species and description in relation to which a close season is prescribed by Schedule 1 to this Act; and the prohibited period, in relation to any such venison, is the period beginning with the expiry of the tenth day, and ending with the expiry of the last day, of that close season.
- (3) If any person—
  - (a) sells or offers or exposes for sale, or has in his possession for sale, or
  - (b) purchases or offers to purchase or receives,
 any venison which comes from a deer to which this subsection applies, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale or to imprisonment for a term not exceeding three months or to both.
- (4) Subsection (3) above applies to any deer—
  - (a) which has been taken or killed in circumstances which constitute an offence under any of the preceding provisions of this Act; and
  - (b) which the person concerned knows or has reason to believe has been so taken or killed.
- (5) In this section—

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“licensed game dealer” means a person licensed to deal in game under the <sup>M2</sup>Game Act 1831 and the <sup>M3</sup>Game Licences Act 1860, and includes a servant of such a person; and

“sale” includes barter and exchange, and “sell” and “purchase” shall be construed accordingly.

#### Marginal Citations

M2 1831 c. 32.

M3 1860 c. 90.

## 11 Licensed game dealers to keep records.

- (1) Every licensed game dealer who sells or offers or exposes for sale, or has in his possession for sale, any venison shall—
  - (a) in accordance with the provisions of this section keep or cause to be kept a book containing records (in this section referred to as a “record book”); and
  - (b) subject to subsection (3) below, enter or cause to be entered in his record book forthwith full particulars of all his purchases and receipts of venison;and, subject to subsection (2) below, those records shall be in the form set out in Schedule 3 to this Act or a form substantially to the same effect.
- (2) The Secretary of State may by order vary the form in which records are required to be kept under this section.
- (3) Where a licensed game dealer has purchased or received venison from another licensed game dealer, or from a venison dealer licensed under <sup>F4</sup>section 33 of the Deer (Scotland) Act 1996], he need record in his record book only—
  - (a) that the venison was so purchased or received;
  - (b) the name and address of the other licensed game dealer or the venison dealer so licensed;
  - (c) the date when the venison was so purchased or received; and
  - (d) the total weight of the venison.
- (4) Any authorised officer, on producing, if so required, his written authority, and any constable, may inspect—
  - (a) the record book of a licensed game dealer,
  - (b) any venison in the licensed game dealer’s possession or under his control, or on premises or in vehicles under his control, and
  - (c) any invoices, consignment notes, receipts and other documents which relate to entries in the record book (including, where the originals are not available, copies),and may take copies of, or extracts from, the record book and any such documents.
- (5) A record book shall be kept until the end of the period of three years beginning with the day on which the last entry was made in the book, and any such documents as are mentioned in subsection (4)(c) above shall be kept until the end of the period of three years beginning with the date of the entry to which they relate.
- (6) Any licensed game dealer who, without reasonable excuse, fails to comply with the provisions of this section shall be guilty of an offence.

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- (7) If any person—
- (a) intentionally obstructs any authorised officer or constable making an inspection under this section, or
  - (b) knowingly or recklessly makes or causes to be made in a record book any entry which is false or misleading in a material particular,
- he shall be guilty of an offence.
- (8) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (9) In this section—
- “authorised officer” means any officer of the council of a [<sup>F5</sup>Welsh county or county borough,] district or London borough, or of the Common Council of the City of London, who is authorised by them in writing to exercise the powers conferred by this section;
- “licensed game dealer” has the same meaning as in section 10 above; and
- “sale” has the same meaning as in that section, and “sell” and “purchase” shall be construed accordingly.

#### Textual Amendments

- F4** Words in s. 11(3) substituted (18.11.1996) by 1996 c. 58, ss. 48(2)(6), **Sch. 4 para. 2** (with s. 43(1))
- F5** Words in s. 11 inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 92** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 4, **Sch. 2**

*Enforcement etc.*

## 12 Powers of search, arrest and seizure.

- (1) If a constable suspects with reasonable cause that any person is committing or has committed an offence under this Act, the constable may without warrant—
- (a) stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person;
  - (b) search or examine any vehicle, animal, weapon or other thing which that person may then be using if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that vehicle, animal, weapon or other thing;
  - (c) seize and detain for the purposes of proceedings under this Act anything which is evidence of the commission of the offence and any deer, venison, vehicle, animal, weapon or other thing which is liable to be forfeited under section 13 below.
- (2) For the purposes of—
- (a) exercising the powers conferred by subsection (1) above, or
  - (b) arresting a person, in accordance with section 25 of the <sup>M4</sup>Police and Criminal Evidence Act 1984 (general arrest conditions), for an offence under this Act,
- a constable may enter any land other than a dwelling-house.
- (3) A constable may sell any deer or venison seized under this section and the net proceeds of the sale shall be liable to be detained and forfeited in the same manner as the deer



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or venison sold; but he shall not be subject to any liability on account of his neglect or failure to exercise the powers conferred on him by this subsection.

#### Marginal Citations

M4 1984 c. 60.

### 13 Forfeitures and disqualifications.

- (1) The court by which a person is convicted of any offence under this Act may order the forfeiture of—
  - (a) any deer or venison in respect of which the offence was committed or which was found in that person's possession;
  - (b) any vehicle, animal, weapon or other thing which was used to commit the offence or which was capable of being used to take, kill or injure deer and was found in his possession.
- (2) Where the offence of which the person is convicted is an offence under any of sections 1, 10 and 11 above or under subsection (3)(c) below, the court (without prejudice to its powers under subsection (1) above)—
  - (a) may disqualify that person for holding or obtaining a licence to deal in game for such period as the court thinks fit; and
  - (b) may cancel any firearm or shotgun certificate held by him.
- (3) Where the court cancels a firearm or shotgun certificate under subsection (2)(b) above—
  - (a) the court shall cause notice in writing of that fact to be sent to the chief officer of police by whom the certificate was granted; and
  - (b) the chief officer of police shall by notice in writing require the holder of the certificate to surrender it; and
  - (c) if the holder fails to surrender the certificate within twenty-one days from the date of that requirement, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

### 14 Offences by bodies corporate.

- (1) Where an offence under any of sections 1, 10 and 11 above which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

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## *Supplementary*

### **15 Orders.**

- (1) Any power to make orders under this Act shall be exercisable by statutory instrument.
- (2) A statutory instrument containing an order made under any of sections 2(4), 4(3) and 11(2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) No order shall be made under section 7(5) above unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

### **16 Interpretation.**

In this Act, unless the context otherwise requires,—

“ammunition” and “firearm” have the same meaning as in the <sup>M5</sup>Firearms Act 1968;

“deer” means deer of any species and includes the carcase of any deer or any part thereof;

“vehicle” includes an aircraft, hovercraft or boat; and

“venison” includes imported venison and means—

- (a) any carcase of a deer, or
- (b) any edible part of the carcase of a deer,

which has not been cooked or canned.

#### **Marginal Citations**

**M5** 1968 c. 27.

### **17 Transitional provisions, consequential amendment and repeals.**

- (1) Anything done under any provision of the <sup>M6</sup>Deer Act 1963 or the <sup>M7</sup>Deer Act 1980 shall have effect as if it had been done under the corresponding provision of this Act.
- (2) Without prejudice to the generality of subsection (1) above, a licence granted by the Nature Conservancy Council under section 11 of the Deer Act 1963 which, by virtue of paragraph 8 of Schedule 11 to the <sup>M8</sup>Environmental Protection Act 1990, has effect as if granted by the Nature Conservancy Council for England or the Countryside Council for Wales, shall be treated as if it had been granted under subsection (1) or, as the case may be, subsection (2) of section 8 above.
- (3) Where a licence granted under section 11 of the Deer Act 1963 contains a reference to an enactment repealed by this Act, the licence shall be construed as referring, or, as the context requires, as including a reference to, the corresponding provision of this Act.
- (4) Where a period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision thereof had been in force when that period began to run.

<sup>F6</sup>(5) .....

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- (6) The enactments specified in Schedule 4 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

**Textual Amendments**

**F6** S. 17(5) repealed (18.11.1996) by 1996 c. 58, ss. 48(2)(6), Sch. 5 (with s. 43(1))

**Marginal Citations**

**M6** 1963 c. 36.

**M7** 1980 c. 49.

**M8** 1990 c. 43.

**18 Short title, extent and commencement.**

- (1) This Act may be cited as the Deer Act 1991.
- (2) With the exception of section 17(5) above, which extends to Scotland only, this Act extends to England and Wales only.
- (3) This Act shall come into force at the end of the period of three months beginning with the day on which it is passed.

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