

2007 No. 2007

REGULATORY REFORM, ENGLAND AND WALES

ANIMALS

The Regulatory Reform (Game) Order 2007

Made - - - -

12th July 2007

Coming into force - -

1st August 2007

This Order is made by the Secretary of State for Environment, Food and Rural Affairs (“the Secretary of State”) in exercise of the powers conferred by section 1 of the Regulatory Reform Act 2001^(a):

For the purposes of section 3(1) of that Act, the Secretary of State is of the opinion that this Order does not—

- (a) remove any necessary protection, or
- (b) prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise.

For the purposes of section 3(2) of that Act, the Secretary of State is of the opinion, in relation to any burden created by this Order, that—

- (a) the provisions of this Order, taken as a whole, strike a fair balance between the public interest and the interests of the persons affected by the burden, and
- (b) the extent to which this Order removes or reduces one or more burdens, or has other beneficial effects for persons affected by the burdens imposed by the existing law, makes it desirable for the Order to be made.

The Secretary of State has consulted in accordance with section 5(1) of that Act.

The Secretary of State laid a document before Parliament containing his proposals for this Order in accordance with section 6(1) of that Act.

The period for Parliamentary consideration referred to in section 8(1) of that Act has expired.

In accordance with section 8(4) of that Act, the Secretary of State has had regard to the representations made during that period and in particular to the 5th Report of the Delegated Powers and Regulatory Reform Committee of the House of Lords^(b) and the 1st Report of the Regulatory Reform Committee of the House of Commons^(c).

The Secretary of State has laid a draft of this Order before Parliament with a statement as required by section 8(5) of that Act.

^(a) 2001 c. 6.

^(b) Session 2006-07 HC 44.

^(c) Session 2006-07 HC 384.

The draft has been approved by resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Regulatory Reform (Game) Order 2007 and comes into force on 1st August 2007.

(2) This Order extends to England and Wales only.

Game Licences

2. In the Game Act 1831(a) the following are repealed—

- (a) sections 5 (saving as to existing laws requiring game certificates) and 6 (every person holding a certificate may kill and take game, etc.);
- (b) in section 7(b) (under existing leases the landlord shall have the game except in certain cases), the words “who shall have obtained an annual game certificate”;
- (c) in section 10(c) (this Act not to give interest in game to owners of cattlegates or rights of common, etc.), the words “who shall have obtained an annual game certificate”;
- (d) in section 11(d) (landlords who have reserved the game may authorize others to kill it), the words “who shall have obtained an annual game certificate”;
- (e) in section 13(e) (lords of manors may appoint gamekeepers to act within limits of manors etc.), the words from “, and to authorize” to the end;
- (f) in section 15(f) (regulations respecting appointment of gamekeepers in Wales), the words from “; and it shall be lawful” to the end;
- (g) sections 17 (persons holding certificates may sell game to licensed dealers, etc.) and 18 (justices to hold a special session yearly for granting licences to persons to deal in game, etc.);
- (h) sections 21 to 23 (which contain further provisions relating to licences and certificates); and
- (i) sections 25 to 29 (which contain provisions relating to licences and the consequences of persons not having licences or game certificates).

3. The Game Licences Act 1860(g) is repealed.

Sale of Game

4. Section 4 of the Game Act 1831 (penalty on dealers in game buying, selling or possessing birds of game after 10 days after expiration of season for killing, etc.) is repealed.

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- (a) 1831 c. 32.
 - (b) Section 7 was amended by section 1 of, and the Schedule to, the Statute Law Revision (No. 2) Act 1888 (1888 c. 57). The Statute Law Revision (No. 2) Act 1888 was repealed by the Statute Law (Repeals) Act 1989 (1989 c. 43), section 1(1), Schedule 1, Part XI.
 - (c) Section 10 was amended by section 1 of, and the Schedule to, the Statute Law Revision (No. 2) Act 1888 (1888 c. 57). The Statute Law Revision (No. 2) Act 1888 was repealed by the Statute Law (Repeals) Act 1989 (1989 c. 43), section 1(1), Schedule 1, Part XI.
 - (d) Section 11 was amended by section 1 of, and the Schedule to, the Statute Law Revision (No. 2) Act 1888 (1888 c. 57). The Statute Law Revision (No. 2) Act 1888 was repealed by the Statute Law (Repeals) Act 1989 (1989 c. 43), section 1(1), Schedule 1, Part XI.
 - (e) Section 13 was amended by section 1 of, and the Schedule to, the Statute Law Revision (No. 2) Act 1888 (1888 c. 57). The Statute Law Revision (No. 2) Act 1888 was repealed by the Statute Law (Repeals) Act 1989 (1989 c. 43), section 1(1), Schedule 1, Part XI.
 - (f) Section 15 was amended by section 1 of, and the Schedule to, the Statute Law Revision (No. 2) Act 1888 (1888 c. 57). The Statute Law Revision (No. 2) Act 1888 was repealed by the Statute Law (Repeals) Act 1989 (1989 c. 43), section 1(1), Schedule 1, Part XI.
 - (g) 1860 c. 90.

5. After section 3 of the Game Act 1831 (penalty for killing or taking game on certain days and during certain seasons, etc.) insert—

“3A Sale of birds of game

(1) If any person—

- (a) sells or offers or exposes for sale, or
- (b) has in his possession or transports for the purposes of sale,

any bird of game to which this subsection applies, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both.

(2) Subsection (1) applies to any bird of game—

- (a) which has been taken or killed in circumstances which constitute an offence under any of—
 - (i) the Night Poaching Act 1828^(a);
 - (ii) this Act^(b);
 - (iii) the Poaching Prevention Act 1862^(c); or
 - (iv) Part 1 of the Wildlife and Countryside Act 1981^(d) (wildlife); and
- (b) which the person concerned knows or has reason to believe has been so taken or killed.”.

Consequential repeals, revocations and amendments

6. The Schedule (which contains consequential repeals, revocations and amendments) has effect.

12th July 2007

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

(a) 1828 c. 69.
(b) 1831 c. 32.
(c) 1862 c. 114.
(d) 1981 c. 69.

CONSEQUENTIAL REPEALS, REVOCATIONS AND
AMENDMENTS

PART 1

Repeals and Revocations

1. The following are repealed—

- (a) the Hares Act 1848(a);
- (b) section 4 of the Ground Game Act 1880(b) (exemption from game licences);
- (c) the Customs and Inland Revenue Act 1883(c);
- (d) in the first Schedule(d) to the Local Government Act 1888(e) (local taxation licences), the words “Licences to deal in game” and “Killing game”;
- (e) section 27(1)(c) of the Local Government Act 1894(f) (transfer of certain powers of justices to district councils);
- (f) the Finance Act 1908(g);
- (g) the Finance Act 1924(h);
- (h) in the Finance Act 1937(i), section 5 (repeal of male servant duty, and effect thereof on game licence duty) and the second Schedule (amendments of Game Licences Act 1860);
- (i) in section 100 of the Agriculture Act 1947(j) (supplementary provisions relating to sections ninety-eight and ninety-nine), subsection (4);
- (j) in Part 2 of Schedule 3 to the Local Government Act 1966(k) (variation of fees for licences, registration etc.), paragraphs 1 and 4, and, in the second column, the reference to the Treasury;
- (k) in the Post Office Act 1969(l), section 134 (issue by local authorities in Great Britain of game licences) and section 135 (remuneration of the Post Office for issuing game licences in England and Wales);
- (l) the Game Act 1970(m);
- (m) section 213 of the Local Government Act 1972(n) (local licence duties);
- (n) section 176 of the Customs and Excise Management Act 1979(o) (game licences);

(a) 1848 c. 29.

(b) 1880 c. 47.

(c) 1883 c. 10.

(d) The first Schedule to the Local Government Act 1888 was amended by sections 5 and 34 of, and Part 3 of Schedule 2 to, the Finance Act 1937 (1937 c. 54), sections 6 and 49 of, and Part 2 of Schedule 5 to, the Finance Act 1944 (1944 c. 23), section 52 of, and Parts 1 and 2 of Schedule 11 to, the Finance Act 1949 (1949 c. 47), section 1 of, and Part 8 of the Schedule to, the Statute Law (Repeals) Act 1975 (1975 c. 10) and section 1 of, and Part 10 of Schedule 1 to, the Statute Law (Repeals) Act 1993 (1993 c. 50).

(e) 1888 c. 41.

(f) 1894 c. 73.

(g) 1908 c. 16.

(h) 1924 c. 21.

(i) 1937 c. 54.

(j) 1947 c. 48.

(k) 1966 c. 42.

(l) 1969 c. 48.

(m) 1970 c. 13.

(n) 1972 c. 70.

(o) 1979 c. 2.

- (o) in the Deer Act 1991^(a)—
 - (i) in section 10 (offences relating to sale and purchase etc. of venison), subsections (1) and (2);
 - (ii) the definition of “licensed game dealer” in section 10(5) and the word “and” following it;
 - (iii) section 11 (licensed game dealers to keep records); and
 - (iv) Schedule 3 (form of record to be kept by licensed game dealers);
- (p) in Schedule 8 to the Postal Services Act 2000^(b) (amendments of enactments), paragraph 11 (Post Office Act 1969); and
- (q) in Schedule 8 to the Courts Act 2003^(c) (minor and consequential amendments), paragraph 32 (Hares Act 1848).

2. In the London Government (Public General Acts) Order 1965^(d), article 3 (transfer of certain functions and liabilities of justices out of session in relation to the licensing of dealers in game) is revoked.

3. In the Fees for Game and Other Licences (Variation) Order 1968^(e), in the Schedule (enactments amended) omit the entries relating to fees specified under the Game Licences Act 1860 and the Customs and Inland Revenue Act 1883.

PART 2

Amendments

Amendments to the Deer Act 1991

4. The Deer Act 1991 is amended as follows—
- (a) in section 13 (forfeitures and disqualifications), in subsection (2)—
 - (i) for “1, 10 and 11” substitute “1 and 10”; and
 - (ii) omit paragraph (a) and the word “and” following it;
 - (b) in section 14 (offences by bodies corporate), for “1, 10 and 11” substitute “1 and 10”; and
 - (c) in section 15 (orders), in subsection (2), for “2(4), 4(3) and 11(2)” substitute “2(4) and 4(3)”.

^(a) 1991 c. 54.
^(b) 2000 c. 26.
^(c) 2003 c. 39.
^(d) S.I. 1965/602.
^(e) S.I. 1968/120.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 1 of the Regulatory Reform Act 2001. It amends the Game Act 1831 and the Deer Act 1991, repeals the Game Licences Act 1860, and:

- (a) removes the requirement to hold a game licence in order to take or kill game;
- (b) removes the requirement to hold a local authority licence and an excise licence (dealing licences) in order to deal in game; and
- (c) removes the restrictions on dealing in game birds and venison during the close season, permitting game to be sold by everyone all year round provided that the animal in question was lawfully killed.

Articles 2 and 3 make amendments relating to game licences. Article 2 amends the Game Act 1831 and article 3 repeals the Game Licences Act 1860. Together they remove the requirement to obtain a game licence to kill or take game and the requirement to obtain a local authority licence and an excise licence to deal in game.

Article 4 repeals section 4 of the Game Act 1831 under which it was an offence to buy or sell game birds at certain times of the year. Article 5 replaces this with a new offence of selling, offering or exposing for sale, possessing or transporting for the purposes of sale any game bird that has been killed or taken in contravention of the legislation listed in new section 3A(2), where the person concerned knows, or has reason to believe, it had been so taken or killed.

Article 6 introduces the Schedule. Part 1 of the Schedule makes consequential repeals and revocations. This includes removing the seasonal restriction on the selling of venison by unlicensed persons found in the Deer Act 1991. This will mean that venison can be sold by any person all year round, providing it is lawfully sourced. Part 1 also removes the record keeping requirements relating to the sale and purchase of venison found in section 11 of the Deer Act 1991.

Part 2 of the Schedule makes consequential amendments to the Deer Act 1991.

A Regulatory Impact Assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from Defra (Wildlife Species Conservation Division), Temple Quay House (Zone 1/11), 2 The Square, Temple Quay, Bristol, BS1 6EB.

STATUTORY INSTRUMENTS

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The Regulatory Reform (Game) Order 2007

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