



The importance of maintaining the **Hunting Act 2004**

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Key facts...

- ★ The RSPCA believes the Hunting Act 2004 is a workable, enforceable piece of legislation.
- ★ The Hunting Act has been in force for twelve years and has already proven to be an effective and integral piece of the legislative framework protecting wildlife in England and Wales.
- ★ Since the Act came into force, there have been 792 prosecutions for offences under the Hunting Act, of which 522 defendants were found guilty.
- ★ It is clear that the Judiciary has accepted the aim of the Act: to prevent or reduce unnecessary suffering to wild animals in the context of a moral judgement.
- ★ Repeal would not only give a green light to resuming hunting of foxes by dogs but also deer hunting, mink hunting, hare hunting and hare coursing.
- ★ Despite the upheaval and uncertainty created by the legal challenges it has faced, a significant number of prosecutions and convictions have been secured under the Act.
- ★ Repeal would have a much wider impact on wildlife and rural life.
- ★ The quality of legislation should not simply be judged by inaccurate perceptions about the number of prosecutions under it: laws are also there to express our collective values and to deter people from behaviour which society deems unacceptable.
- ★ The Hunting Act has been successful in allowing people to continue to pursue traditional leisure activities, whilst removing also the element of animal cruelty previously associated with them.

The Act is clear in its scope:

- It prohibits hare coursing and makes it an offence to hunt a wild mammal with a dog¹ unless the hunting is exempt under schedule 1;
- The Act also makes it an offence for a landowner² to knowingly permit his land to be used to hunt wild mammals with dogs illegally (as set out in section 1) or for hare coursing.

The Act's critics have questioned whether it is enforceable, legitimate, rational and proportionate. This briefing aims to examine these claims, restate the importance of the Act, why it was passed and what it can deliver.

Is the Hunting Act enforceable?

One of the criticisms of the Act is that it is difficult to enforce; a point that its detractors attempt to use by what is claimed to be the small number of prosecutions under the Act since it was passed. Yet this claim is not borne out by a review of the prosecutions and convictions made under the Act.

Since the Act came into force, there have been 792 prosecutions for offences under the Hunting Act, of whom 522 defendants were found guilty (an overall success rate of 66%). The number of prosecutions

¹ Defined in section 11(2)

² Defined in section 11(3)

under the Hunting Act compares favourably with other wildlife legislation. For example, in 2017 there were 52 prosecutions under the Hunting Act 2004, 6 cases taken relating to the Protection of Badgers Act 1992 and 6 in relation to the Deer Act 1991.

The following tables set out the total number of defendants proceeded against (table 1), the number of defendants found guilty (table 2) and the success rate of prosecutions taken (table 3) each year under certain wildlife legislation.

Table 1 Number of defendants proceeded against under wildlife legislation³

	Protection of Badgers Act 1992	Deer Act 1991	Wild Mammals (Protection) Act 1996	Hunting Act 2004
2017	6	6	2	52
2016	16	25	4	57
2015	26	13	1	92
2014	25	2	0	64
2013	59	9	0	110
2012	64	10	2	84
2011	58	10	3	72
2010	48	10	6	49
2009	50	3	8	89
2008	34	4	6	44
2007	20	3	7	62

Table 2 Number of defendants found guilty of offences under wildlife legislation⁴

	Protection of Badgers Act 1992	Deer Act 1991	Wild Mammals (Protection) Act 1996	Hunting Act 2004
2017	6	5	2	22
2016	13	18	4	31
2015	14	11	1	45
2014	18	0	0	35

³ Hansard, 23 June 2008, col 52W; Hansard, 17 December 2008, col 799W; Hansard, 13 January 2009, col 713W; Hansard, 4 February 2010, col 500W; Hansard, 13 September 2010, col 707-709W; Hansard, 23 November 2011, col 427-428W; Hansard, 31 October 2012, col 277-278W; Hansard, 30 October 2013, col 492-493W; Hansard, 26 June 2014, col 303W; Hansard, 23 June 2015, PQ3270 and PQ3271; Hansard, 28 February 2017, PQ64671; Hansard, 23 February 2017, PQ64648; Hansard, 12 September 2017, PQ9465; Hansard, 13 October 2017, PQ106094, Hansard 13 June 2018, PQ150579, Hansard, 18 October 2018, PQ 181198

⁴ Hansard, 23 June 2008, Col 52W; Hansard 17 December 2008, Col 799W; Hansard, 13 January 2009, Col 713W; Hansard, 7 December 2009, Col 16W; Hansard, 4 February 2010, col 500W; Hansard, 13 September 2010, col 707-708W; Hansard, 23 November 2011, col 427-428W; Hansard 31 October 2012, col 277-278W; Hansard, 30 October 2013, col 492-493W, Hansard, 26 June 2014, col 303W; Hansard, 23 June 2015, PQ3270 and PQ3271; Hansard, 23 February 2017, PQ64648; Hansard, 13 October 2017, PQ106094, Hansard, 18 October 2018, PQ 181198

2013	32	8	0	56
2012	31	8	0	48
2011	34	4	1	56
2010	29	5	4	36
2009	30	2	5	59
2008	22	1	5	33
2007	6	1	3	48

Table 3 Success rate of prosecutions taken

	Protection of Badgers Act 1992	Deer Act 1991	Wild Mammals (Protection) Act 1996	Hunting Act 2004
2017	100%	83%	100%	42%
2016	81%	72%	100%	54%
2015	54%	85%	100%	49%
2014	72%	0%	0%	55%
2013	54%	89%	0%	51%
2012	48%	80%	0%	57%
2011	59%	40%	33%	78%
2010	60%	50%	67%	73%
2009	60%	67%	63%	64%
2008	65%	25%	83%	75%
2007	30%	33%	43%	77%

These tables show that, despite the legal challenges it has faced, offences under the Hunting Act have been successfully prosecuted.

What would repeal of the Hunting Act mean?

The Hunting Act is not confined to prohibiting fox hunting – it also affects the activities of those who use hounds, terriers and lurchers to hunt foxes, deer, hares and mink. Repeal would not only give a green light to resuming hunting of foxes by dogs but also deer hunting, mink hunting, hare hunting and hare coursing.

In some instances where animals defined as ‘game’, such as hares, are involved, then other possible offences may be invoked, such as trespass in pursuit of game. However, if hare coursing is to be controlled it may not be seen as appropriate to rely on statutes such as the Game Act 1831 or the Poaching Prevention Act 1862 or even the Night Poaching Act 1820. Landowners could find themselves facing very real difficulties dealing with people trespassing on their land and poaching or coursing hares with their dogs.

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Furthermore, repeal of the Act could have a significantly wider impact on rural communities and wildlife. As can be seen from the tables above badgers are still a persecuted species. By banning the hunting of foxes the Hunting Act simplified the legal situation regarding the obstruction of badger setts by those hunting foxes. Its repeal would therefore be likely to revive controversies and legal disputes over any stopping up of setts associated with hunting.

What does the public think about the Hunting Act?

Hunting with dogs was banned because the majority of the British public were, and still are, appalled at the cruelty of chasing and killing wild animals with a packs of dogs. The Government of the day agreed this. A survey carried out by Ipsos MORI in 2016⁵ shows that:

- 84% of people in Great Britain think that fox hunting should remain illegal;
- 88% think deer hunting should not be made legal again; and
- 91% think hare hunting/coursing should also remain illegal.

Additionally, a survey carried out by Survation in May 2017 revealed that 46% of voters would be less likely to vote for a General Election candidate if they wanted to make fox hunting legal again⁶.

Conclusion

The RSPCA believes that the Hunting Act is a workable, enforceable piece of legislation. Despite the upheaval and uncertainty created by the legal challenges it has faced, a significant number of prosecutions and convictions have been secured under the Act. Repeal would have a wider impact on wildlife and rural life. Finally, the public (including the RSPCA's many supporters) also continues to strongly support the Act.

It would seem that the Act has not had the dire economic and social consequences that some opponents had predicted – hunt supporters themselves are adamant that various forms of drag and trail hunting have apparently flourished. It is worth remembering that the Act did not stop foxes or other animals being killed: it banned the use of dogs in chasing and killing wild mammals. Therefore, the fears about surrounding an 'explosion' in the numbers of foxes seem to have been misplaced.

The RSPCA believes that the Hunting Act should be kept in place so that the cruelty of hunting wild mammals with dogs can continue to be addressed. The quality of legislation should not simply be judged by inaccurate perceptions about the number of prosecutions under it: laws are also there to express our collective values and to deter people from behaviour which society deems unacceptable. By this standard the Hunting Act has been successful; by allowing people to continue to pursue traditional leisure activities whilst removing the element of animal cruelty previously associated with them.

⁵ <https://www.ipsos.com/sites/default/files/migrations/en-uk/files/Assets/Docs/Polls/attitudes-to-hunting-2016-tables.pdf> (accessed 25.05.17)

⁶ <http://survation.com/wp-content/uploads/2017/06/Final-LACS-Tables-260517TOCHCR-1c0d0h9.pdf> (accessed 03.01.18)