

LEGISLATION

DEER LEGISLATION

ENGLAND & WALES
BEST PRACTICE GUIDES



Introduction

This guide describes the general principles of the law relating to wild deer, it is not a full description of that law. It is important to study the full legislation to which this guide relates (see Further Information) Practitioners need to be fully conversant with current legislation in order to make informed management decisions and be sure that their actions are legal.

The following definitions apply:

“**Deer**” means deer of any species and includes the carcass or any part thereof

“**Night**” means the period between 1 hour after sunset and 1 hour before sunrise

“**Vehicle**” includes any vehicle including aircraft, hovercraft or boat

The law specifically relating to deer in England and Wales is contained in the Deer Act 1991 (Deer Act) and the amendments in the Statutory Instrument No 2183 (SI 2183) resulting from the Regulatory Reform (Deer) (England and Wales) Order 2007. The Deer Act and SI 2183 should always be consulted together. Other legislation which is relevant to deer is listed where appropriate. Each heading below includes a reference to the relevant legislation e.g. s2 Deer Act means section 2 of the Deer Act 1991.

This guide links to Firearms legislation, Meat Hygiene legislation and Disease guides

Access and ownership

Access to land[s.1 Deer Act]. Without the consent of the landowner, occupier or other lawful authority(e.g. the holder of deer rights on land), it is an offence to:

- ◆ Enter any land in search or pursuit of any deer with intent to take, kill or injure it;
- ◆ While on any land to attempt to or to kill or injure any deer, to search for or to pursue deer with such intent;
- ◆ To remove the carcass of any deer.

It is therefore advisable to carry written permission as proof of your right to be on the land.

Exemptions. An offence is not committed if the perpetrator did so in the belief that he would have been given consent if the owner or occupier knew of his doing it and the circumstances, or he has other lawful authority.

Ownership of deer. Deer which can roam freely are wild animals and are not owned by, or the responsibility of, anyone. A wild deer becomes the property of the landowner when “reduced into possession” i.e. killed or captured, thus a culled deer is the property of the owner of the land on which it dies, a deer killed in a road accident is the property of the owner of the highway, verge or land on which it falls. The status of enclosed deer such as park deer is not so clear, they are generally regarded as “wild” with respect to shooting seasons but in some cases may be regarded as property. There is no clear definition of farmed deer but deer which carry tags which include the agricultural holding number or which are listed as part of a farm enterprise are regarded as domestic livestock and therefore as property.

Enforcement

Powers of authorised persons[s.1 Deer Act]. A landowner, occupier or anyone authorised by them including anyone holding the right to kill deer on the land is deemed to be an authorised person. If such a person suspects another of committing a poaching offence, they may require that person to give his full name and address and quit the land forthwith - failure to comply constitutes a further offence.

Police powers and courts[s.12 Deer Act]. A Police officer may stop and search any person, vehicle, animal, weapon or other thing and seize anything that they suspect may provide evidence. Such items are all liable to forfeit upon conviction. In the exercise of these powers, a Police officer may

enter any land and search any building other than a dwelling house.

Upon conviction, a Court may order forfeit of any deer or venison found in an offender's possession and any vehicle, animal, weapon or other equipment used or capable of being used to kill deer and found in their possession. [s.13] The court may also cancel any shotgun or firearms certificate.

Welfare

Humane Dispatch [s.6 Deer Act, s.3 SI 2183]

For the purposes of preventing suffering, an injured or diseased deer may be taken or killed out-of-season or at night. A person may use any reasonable means to kill a deer if it is reasonably believed that the deer has been so seriously injured, otherwise than by his unlawful act, or is in such condition, that to kill it is an act of mercy." "Any reasonable means" means any method of killing a deer that can reasonably be expected to result in rapid loss of consciousness and death and which is appropriate in all the circumstances (including in particular what the deer is doing, its size, its distance from the closest position safely attainable by the person attempting to kill the deer and its position in relation to vegetative cover).

A person may take or kill a dependent young deer which has lost, or is about to lose its mother (other than by an illegal act by that person), at any time for humane reasons.

A trap or net may be used for the purpose of preventing the suffering of an injured or diseased deer.

Welfare of Animals (Transport) Order (England) 2006 and Welfare of Farmed Animals (Transport) (Wales) Order 2007

Governs unnecessary suffering to animals (including deer) when being transported where the journey is of a commercial nature.

Wild Mammals (Protection) Act 1996

Protects wild mammals in England and Wales from deliberate acts of cruelty. It makes it illegal to kick, beat, stab, impale, burn, crush, stone, drag, asphyxiate or drown any wild mammal thus causing unnecessary suffering.

A person is not guilty of an offence if he can show that:

- ◆ The attempted killing of any such wild mammal was an act of mercy and it had been

so severely disabled [otherwise than by his unlawful act] that there was no reasonable chance of its recovering;

- ◆ The killing of any such mammal was in a reasonably swift and humane manner and it was injured or taken in the course of a lawful activity.

Animal Welfare Act 2006

Protects all vertebrate(backboned) animals from acts of cruelty(including abandonment) while under the control of a person and imposes a "duty of care" on that person. Secondary legislation and codes of practice may vary between England and Wales. Although the Act is normally concerned with domestic animals it applies equally to captured deer, tame deer or injured deer under treatment. The Act does not apply to the stalking of wild deer.

Shooting seasons and times

Close seasons [s.2 Deer Act, sec 5 SI 2183]

It is an offence to take or kill a deer during its Close Season; these are specified in Schedule 1 of the Act as modified by the SI 2183. Dates inclusive.

| species | Sex | Close Season |
|-----------------------|----------------|-----------------------------------|
| Red Deer and hybrids | male female | 1 May - 31 Jul 1 Apr - 31 Oct |
| Fallow Deer | male female | 1 May - 31 July 1 Apr - 31 Oct |
| Sika Deer and hybrids | male female | 1 May - 31 Jul 1 Apr - 31 Oct |
| Roe Deer | male female | 1 Nov - 31 Mar 1 Apr - 31 Oct |
| Chinese Water Deer | male female | 1 Apr - 31 Oct 1 Apr - 31 Oct |

No Close Season is specified for Muntjac because they breed all year round. The season for Chinese Water Deer bucks is the same as for does as they are hard to distinguish in the field. The season for hybrids is the same as for the parent species.

Deer can be shot in season on any day of the week including all public holidays.

An exception is provided that allows deer farmers, or any servant or agent authorised by them, to kill deer during the close season where, by way of business, conspicuously marked deer are kept behind deer-proof barriers for the production of meat, skins other by-products or as breeding stock. This does not allow the killing of farmed deer at night.

Out of Season Shooting[s.6(1) and 7 Deer Act, s.4 SI 2183]

Natural England and the Welsh Assembly Government may issue licences to any person having a right of entry to the land for the purpose of taking or killing deer for out of season shooting for the purposes of:

- ◆ preserving public health or public safety, or
- ◆ conserving the natural heritage

(see also Damage by deer below and Out of Season Shooting guide)

Damage by deer. [s.7Deer Act]

On any cultivated land, pasture or enclosed woodland, deer may be shot during the close season and a shotgun can be used in certain circumstances [see below] in order to prevent damage. This action may be taken by the occupier of the land in person and with his written permission by:

- ◆ Any member of the occupier's household normally resident on the land;
- ◆ Any person in ordinary service of the occupier of the land;
- ◆ Any person having the right to take or kill deer on the land;
- ◆ Any person acting with written authority of a person having that right.

Subject to that person having:

- ◆ 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 and;
- ◆ further damage was likely to be caused and was likely to be serious;
- ◆ The action was necessary to prevent any such damage.

If a shotgun is to be used, the following conditions apply

- ◆ It must be not smaller than a 12 bore;
- ◆ AAA shot ONLY may be used, or
- ◆ A single non-spherical projectile weighing not less than 22.68 grammes (350 grains)
Note that a firearms certificate is required to purchase such ammunition.

Night Shooting. [s.3 and s.6(1) Deer Act, s.4 SI 2183]

It is illegal to take or intentionally to kill a deer at night(between 1 hour after sunset and 1 hour before sunrise)

Natural England or the Welsh Assembly Government may issue licences to any person having a right of entry to the land for the purpose of taking or killing deer, for night shooting for the purposes of:

- ◆ Preventing serious damage to property
- ◆ preserving public health or public safety
- ◆ conserving the natural heritage
(see Night Shooting guide)

Agriculture Act 1947. Nothing in s.2 Deer Act (close seasons) or s.3 (shooting at night) makes unlawful anything done in pursuance of a requirement by the Agriculture Minister under s.98 of the Agriculture Act 1947.

Taking and killing deer

(see also Welfare)

Prohibited methods [s.4 Deer Act , s.3 SI 2183, s.11 Wildlife and Countryside Act 1981]

It is illegal to set in position for deer any trap, snare or poisoned or stupefying bait or to take or kill any deer with these items or any net.

It is illegal to take, kill or injure a deer using:

- ◆ any arrow, spear or similar missile;
- ◆ any missile however discharged, carrying a poison or stupefying drug;
- ◆ any automatic or semi-automatic full bore rifle (Firearms (Amendment) Act 1988);
- ◆ Any firearm or ammunition mentioned in Schedule 2 of the Deer Act or the SI 2183, specifically;
 1. Any smooth bore gun;
 2. For Roe deer and larger deer: a rifle having a calibre less than .240 inches or a muzzle energy of less than 1700 ft lbs (both criteria apply)
 3. For Chinese Water Deer and Muntjac: a rifle having a calibre of less than .220 inches and a muzzle energy of less than 1000 foot pounds,

and a bullet weighing not less than 50 grains (all criteria apply)

4. Any air gun, air rifle or air pistol
5. Any cartridge for use in a smooth-bore gun
6. Any bullet for use in a rifle other than a soft-nosed or hollow-nosed bullet

See also “Welfare” above.

A defence exists for use of a shotgun to prevent damage being caused as referred to in “Damage by deer” above.

A vehicle may not be used to fire from or project any missile at a deer when the vehicle is moving or when its engine is running. (see Shooting Deer guide)

A vehicle may not be used to drive deer unless this 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.

Knives are used to process deer carcasses and occasionally in humane dispatch. “Flick” and “Gravity” knives are banned by the Restriction of Offensive Weapons Act (ROWA) 1959 and s139(1)The Criminal Justice Act (CJA) 1988 and make it an offence:

“for any person, without lawful authority or good reason, to have with him in a public place, any article which has a blade or is sharply pointed except for a folding pocket-knife which has a cutting edge to its blade not exceeding 3 inches.”

Whilst deer stalking is a “good reason” for carrying a larger knife, take care that the same knife is not in a pocket or vehicle when engaged in other activities such as shopping.

It is illegal to use any live animal as a decoy for the purpose of taking or killing any deer(Wildlife and Countryside Act1981).

It is illegal to use dogs for hunting deer (Hunting Act 2004) but dogs may be used for essential activities including “stalking and flushing out” deer, this includes using dogs to find wounded deer. A maximum of 2 dogs is allowed. (see Dogs for Deer guide)

Firearms legislation. The legislation relating specifically to firearms is to be found in the Firearms Legislation guide. This includes such topics as possession of firearms and ammunition, certification, “Estate rifles” and firearms offences. The following two points are relevant here:

Slaughtering Instrument. [s.6 (5) Deer Act]
A smooth bore gun of not less than 12 bore with a barrel length of less than 24 inches [609.6 mm] which is loaded with a cartridge containing no shot less than .203 in diameter, i.e. AAA or larger, may be used as a slaughtering instrument. [Note: Such firearms are usually prohibited under s.5 Firearms Act 1968]

The Firearms (Amendment) Act 1997 allows the use of a pistol for the humane killing of animals.

Capture and release [s.8, s14 Deer Act, Animal Welfare Act 2006, Schedule 9 of Wildlife and Countryside Act 1981 as amended]
For the purposes of removing deer from one area to another or to take deer alive for scientific or educational purposes, Natural England or the Countryside Council for Wales may issue [and revoke at any time] a licence allowing a person and anyone acting with that person’s written authority to take deer using a net, trap or stupefying drug delivered by any means authorised by the licence and exempting them from close season and night restrictions. The Animal Welfare Act 2006 applies to captured deer. Under schedule 9 of the 1981 Act it is illegal to release or allow sika or any sika hybrid or muntjac deer to escape into the wild anywhere in UK. Although release of these species is prohibited, in certain circumstances a licence under section 16(4) of the Act may be issued to allow limited releases, for example, of animals that have become entrapped or have been rehabilitated. Restrictions are likely to be placed on the conditions under which, and the locations in which, such releases may take place.

Sale and purchase of venison[s.10 Deer Act, EU Food Hygiene Regulation 2006 and Statutory Instrument 2007 relating to Game Act 1831 and Game Licences Act 1890]
The EU Food Hygiene Regulation 2006 apply nationally to all foods including wild venison and makes anyone who shoots wild deer and supplies it in-fur or as small quantities of wild game meat (except for their own private consumption) responsible for food safety.

Note that the Statutory Instrument 2007 relating to Game Act 1831 and Game Licences Act 1890 removed the requirements of those Acts, and many of those in the Deer Act, relating to venison. Specifically:

- ◆ Game licences and game dealers licences are abolished.
- ◆ Within the provisions of the Food Hygiene Regulations venison may be sold all year round by anyone to anyone provided that the animal was lawfully killed.

See Meat Hygiene legislation Guide and the FSA Wild Game guide (in Further Info below)

By Products [Animal by Products Regulation 2005 Animal By-Products Order 1999 and The Waste Management (England and Wales) Regulations 2006 (S.I. 2006 No. 937)]

Together these pieces of legislation govern the disposal of animal by-products (including deer carcasses and parts) not intended for human consumption. Wild deer are exempt in the place that they were killed i.e. where shot, but see the Larder protocol guide for an interpretation of the legislation regarding deer larder waste.

If a carcass is suspected as diseased the disposal of the carcass is controlled by the regulations in a certain way. (see Meat Hygiene guide)

During outbreaks of diseases such as Foot and Mouth, movement restrictions will be placed on by-products as well as carcasses intended for the food chain, see Disease below

Disease (see disease guides)

- ◆ The Animal Health Act 1981 and Associated Orders is concerned with the prevention of spread of disease and definition of notifiable diseases. The notifiable diseases that might affect deer are given below. Suspected cases at any time should be reported to the Divisional Veterinary Officer:
- ◆ Foot and Mouth Disease(FMD) (The Foot and Mouth Disease Order 2006) A

confirmed outbreak of FMD will usually place a nationwide restriction on deer stalking activities. These restrictions will be modified as the outbreak develops and it is the responsibility of the individual to keep up to date. DEFRA, Deer Initiative and other websites are good sources of information and are updated regularly.

- ◆ Bovine Tuberculosis (bTB) (The Tuberculosis (Deer) Order 1989 and 1993). bTB may be encountered during carcass inspection and must be reported. All live deer being transported must be tagged so that their movements can be traced.
- ◆ Anthrax (The Anthrax Order 1991). Very rare in wild deer.
- ◆ Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974 (as amended) Controls the import of animals that may carry rabies. Deer could be included in wildlife control measures as a result of a rabies outbreak and deer stalking activities may be restricted.
- ◆ Bluetongue(BTV)(Bluetongue Order 2007). Recorded in cattle for the first time in the UK, Sept 07. Not yet recorded in deer in the UK.
- ◆ Cervine Spongiform Encephalopathy. Not recorded in wild deer in the UK.
- ◆ Epizootic Haemorrhagic Virus. A disease of deer similar to bluetongue. Never recorded in deer in the UK.

Further Info

Deer Act 1991 http://www.opsi.gov.uk/ACTS/acts1991/Ukpga_19910054_en_1.htm

The Regulatory Reform (Deer) (England and Wales) Order 2007 <http://www.opsi.gov.uk/si/si2007/20072183.htm>

The Regulatory Reform (Game) Order 2007 <http://www.opsi.gov.uk/si/si2007/20072007.htm>

EU Food Hygiene Regulations 2006. <http://www.food.gov.uk/multimedia/pdfs/draftwildgameguide.pdf#page=13>

FSA wild game meat guidelines: <http://www.food.gov.uk/multimedia/pdfs/draftwildgameguide.pdf>

Animal Health and diseases

<http://www.defra.gov.uk/animalh/index.htm>

<http://www.defra.gov.uk/animalh/welfare/act/affect.htm#2>

Other Acts, Orders and Statutory Instruments:

<http://www.statutelaw.gov.uk/>

<http://www.hmsso.gov.uk/legislation/uk.htm>

<http://www.opsi.gov.uk/>

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