

From: [REDACTED]
To: [2002 Act Review](#)
Subject: Review into the operation of the Protection of Wild Mammals (Scotland) Act 2002 by Dr Brian May's Save Me Trust
Date: 31 March 2016 11:36:12
Attachments: [SMT Scottish Consultation Submission pages](#)

Dear Lord Bonomy

Re: Review into the operation of the Protection of Wild Mammals (Scotland) Act 2002.

We are aware that hunts in Scotland are using the exemption of using packs of dogs to flush foxes from cover to guns as a cover to possible illegal hunting. There is an established and routine pattern of behaviour that is repeated. The Act requires that packs are used only to flush a wild animal to waiting guns, but in the majority of observed cases there are no guns present. There is video evidence we are aware of that shows this behaviour clearly. For an example of this please see the following video: <http://www.eague.org.uk/news-and-opinion/videos/2015/may/scottish-fox-hunts-expose>

We believe that by reducing the number of hounds allowed to flush to guns to a maximum of two, as per the Hunting Act in England & Wales, the hunts will no longer seek to exploit the exemption. Two hounds are sufficient to flush a wild mammal from cover to waiting guns. This is, we believe, the intended purpose of the Protection of Wild Mammals Act 2002.

If these proposals are accepted, we believe that Scottish hunts may follow those in England and Wales and adopt "Trail Hunting". Trail Hunting was created in 2005 with the objective of making the activity look as similar to pre-ban hunting as possible. There are no written rules and the hunts use fox urine to lay the trail. This leads, inevitably, to what hunts describe as 'accidents' that is the death of a wild mammal by a pack of hounds.

Today, hunts in England & Wales continue to train hounds on an animal scent with the inevitable outcome that the hounds will follow the mammal. In Trail Hunting, the Huntsman and whippersnapper do not know where the scent trail was laid, allowing them to claim they were not aware the other hounds were following a live animal rather than a scent trail. In addition, there is no time limit for the hounds to pick up the scent or indeed, to when the scent was laid. If hounds were following a pre-set scent trail, they would set off and follow, but the reality is they are searching for the live animal trail and have to find it first. Most hunts hold a pre-recorded video of a scent trail being laid often filmed days and sometimes weeks in advance. The results show that the hunts are following the law and are able to keep hunting wild animals with dogs, as it was before the Hunting Act was introduced. For further information on Trail Hunting please refer to the report by IFAW UK <http://www.faw.org/united-kingdom/resource-centre/faw-uncover-ng-trail-hunts-overview-report>

Based on our experience and the evidence we have seen, we submit the following proposals to be considered with your consultation:

- 1 Reduce the number of dogs allowed to flush to guns to a maximum of 2 and require that those hounds are fitted with a suitable muzzle.
- 2 Introduce a "recklessness" clause to the Act. This would stop Scottish hunts adopting Trail Hunting which is viewed by hunts in England and Wales as a short term solution to keep the infrastructure of the hunts intact, whilst they seek repeal of the English & Welsh Hunting Act.
3. Introduce a "vicious" liability clause to the Act. Scotland has lead on the introduction of this, in respect of the protection of raptors and we believe that extending the clause to include wild mammals would reduce the possibilities of illegal hunting immediately. Landowners will seriously consider the responsibilities and the hunts previous conduct before granting access to the land.

We further believe that many private estates do not benefit or support hunting but allow it to continue as it is the norm of the estate. Landowners should have the support of the law to stop any illegal hunting on their land and whilst accepting the responsibility should they allow a hunt to do so illegally.

In England and Wales a lot of video evidence is available that shows hunts openly hunting but they rely on the ability of trail hunting and the vagaries or complete lack of rules. Every hunt will adapt Trail hunting to their own advantage. Despite this, the Hunting Act in England and Wales has achieved a number of successful prosecutions.

One example is quoted here for your information: Hopkins and Aken

In 2011, Judge Michael Pert QC told the court that the sett was "plainly a badger sett in current use" and that Hopkins and Aken had pretended to be following a trail scent to cover up the illegal pursuit of a fox. The conduct amounted to "cynical subterfuge". Michael Pert QC's use of the phrase is as descriptive as it is concise and we urge the consultation to recommend the three proposals the introduction of the three proposals we have stated.

A copy of our submissions on our letterhead is attached.

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Yours sincerely

Nigel Palmer

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