

**SUBMISSION FOR THE REVIEW OF
THE PROTECTION OF WILD MAMMALS (SCOTLAND) ACT 2002**

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The Protection of Wild Mammals (Scotland) Act 2002 is to be applauded for its aims but regrettably must also be criticised for its inability to realise these aims. It requires revision and given the recent influence of MPs from Scotland in the Westminster parliament regarding foxhunting, this revision is urgent and must be far-reaching and robust. Failure to do so could legitimately result in accusations of hypocrisy from MPs south of the border.

Though the issue of foxhunting may superficially appear to be a minor concern affecting a small number of foxes and directly involving few individuals, such is the moral repugnance of foxhunting felt by the majority of Scots (Ipsos MORI 2001) and the media attention it brings, that revision of this Act must be treated with the respect it deserves.

In its review and subsequent amendment of the Act, the Scottish parliament has the potential to demonstrate to the people of Scotland and citizens of the UK that it does not shirk from bold decisions and will no longer doff its cap to those who have traditionally exerted political and financial influence, preferring instead to respect the will of the vast majority of Scots. Furthermore, should MSPs take the bold step to effectively outlaw this barbaric form of entertainment it will set a precedent for the Welsh and Northern Irish governments and Westminster itself to follow and will thus achieve a far more widespread positive impact beyond the confines of Scotland. As such Holyrood has a duty to ensure mounted foxhunting is consigned to history.

The Protection of Wild Mammals (Scotland) Act 2002 has failed to achieve many of its aims:

- Foxes are still pursued to the point of exhaustion by packs of hounds and mounted riders.
- Though the Act has resulted in more foxes being killed by firearms, a number are still ripped apart by the foxhounds.
- There have been few prosecutions and no convictions against mounted foxhunts despite considerable concerns that they are in breach of the law. Mounted foxhunts appear to be able to persist in this form of entertainment in spite of the aims of the Act.
- It has failed to satisfy the will of the greater population of Scotland who are outraged that this cruel amusement of the rich and powerful is allowed to continue.

When reviewing the Act there are three key areas of concern which must be addressed:

1. Animal cruelty
2. The moral outrage of the majority
3. The role of the Scottish Parliament

Animal Cruelty

Back in 2002 the Act drew on many of the findings from the report from the UK Government's Committee of Inquiry into Hunting with Dogs chaired by Lord Burns which stated that "the experience of being closely pursued, caught and killed by hounds seriously compromises the welfare of the fox and probably falls short of the standards we would expect for humane killing". (Burns 2000). Post mortem examinations on hunted foxes conducted by the Department of Clinical Veterinary Science at Bristol University (2000 cited in IFAW et al 2013) demonstrated that foxes died from multiple bite wounds and disembowelling as opposed to the single bite to the neck often claimed by hunt supporters.

Since 2002 the science of animal welfare has advanced to the extent that it is now a widely accepted fact that animals are sentient and do experience

emotion, pain, fear and exhaustion. As a result now, more than ever before, it is essential that this pastime be outlawed.

The aim of this review is to “look at whether current legislation is providing the necessary level of protection for foxes and other wild mammals while allowing for the effective and humane control of these animals where required”.

Research has demonstrated that it is “extremely difficult to justify hunting as an exercise in local fox population control” (MacDonald and Johnson 1996) and advocates that foxhunting should be viewed more as a sport than as a method of pest control. Furthermore the Burns Report drew the conclusion that lamping and a skilled marksman appeared to be the most humane method of fox control. Mounted foxhunting should no longer be recognised as a pest control method. Mounted foxhunting must be recognised as a form of entertainment and the law should reviewed with this in mind. As this pastime will not be an acceptable method of pest control, no fox should be killed or wounded during hunts. The requirement for foxes to be flushed to guns should be stopped given the potential for this to mask traditional hunting and the danger to the public from firearms.

Other provisions which will help safeguard the welfare of foxes should include the compulsory muzzling of every dog present on a mounted foxhunt. A time restriction must be strictly enforced on any “active pursuit” of the fox. Running for one’s life to the point of exhaustion does compromise welfare and so a pursuit which lasts more than 30 seconds should be unlawful. Should any dog exceed 30 seconds in pursuit of a fox and fail to be recalled, it must be deemed to be out of control and thus in breach of the law. No more than ONE dog should be present with any mounted hunt.

There is concern for the welfare of foxhounds which are often kennelled for much of their lives, denied exercise and subjected to the high level of stress associated with being densely stocked in a confined area with little stimulation or activity. Veterinary treatment for hounds may also be very limited.

Mounted foxhunting has a negative effect on other wildlife species notably the badgers whose setts may be used as a place of refuge for hunted foxes. The difficulty in ascertaining whether a sett is in active use by badgers is highly likely to result in the disturbance of some badger clans before, during and after

a hunt. There have been cases of hunters attempting to pursue foxes which have gone to ground in badger setts claiming those setts were not in active use. There are also multiple anecdotes of domestic pets, often pet cats and kittens, being disembowelled by packs of foxhounds during hunts.

This review must limit the pursuit of the fox, fully prevent the grotesque end met by many foxes caught by the hounds, improve hound welfare, and protect other species including wildlife and companion animals.

The moral outrage of the majority

Though the stated aims of this review are concerned with animal welfare and animal control, the societal and ethical dimension to this law must also be considered. As mounted foxhunting is a pursuit of the upper classes, passionately enjoyed by the aristocracy and landed gentry, it is perceived by many Scots to be a cruel amusement of the rich and powerful and a symbol of the wealthy and elite lording it over the countryside thumbing their noses at the will of the majority. The continued existence of mounted hunts and the failure to convict those who have been prosecuted sparks fury in the Scottish people as it appears that certain favoured groups are above the law. Vociferous mobs like the so-called “Countryside Alliance” appear to sneer at our judiciary and our parliament by continuing to promote blood-sports in general and mounted foxhunting in particular. There is a real lack of integrity demonstrated by the minority pro-hunting lobby (aided by the Countryside Alliance) and their determination to continue their “sport” with utter disregard for the sentiments of the wider population. Not to mention the abuse of their political and financial influence in attempting to introduce wrecking amendments to the law and challenging the Scottish Parliament on their human rights.

On moral grounds there is no justification for mounted foxhunting: the brief pleasure experienced by the few hunters during their morning’s entertainment cannot ever hope to tip the moral scales weighed down by the suffering of the fox and the abhorrence of the majority of the Scottish electorate. The review of the Act must recognise this and include measures which restore power to the majority and hold criminals to account. Prioritising enforcement and heavy

sentencing should provide a strong incentive to desist from this amusement. ALL participants in the hunt should be prosecuted as should land-owners who permit this form of hunting on their land. Horses, hounds and terriers should be confiscated following convictions. There must be public notification of dates, times and locations of proposed hunts as this will enable video footage to be taken of every hunt and ensure compliance with the law. Hunters must pay for police presence at every hunt. Every hunt participant should apply for a licence for every hunt meeting. The tradition of “bleeding” novice hunters should be recognised as child abuse.

The role of the Scottish Parliament

There are millions who share my passion for our Scottish parliament and are so hopeful that it will have the integrity and courage to enact the will of the Scottish people. The current make-up of MSPs has resulted in a parliament which no longer takes orders from south of the border. In its present form it CAN take bold steps and shake off the image of being Westminster’s branch office. It is now in a position to truly represent the Scottish will. This is a symbolic Act which will help define our independent parliament and demonstrate the ethical differences between Scotland and the rest of the UK. Our parliament must seize this opportunity to make a strong statement to those at odds with Scotland’s ethical values such as mobs like the Countryside Alliance, land-owners with a lust for blood-sports and the Westminster Tories, to the effect that they don’t run this place no more. Moreover, creating legislation which champions animal welfare will benefit Scotland’s standing around the world. As Mahatma Gandhi said “The greatness of a nation and its moral progress can be judged by the way in which its animals are treated. I hold that the more helpless a creature, the more entitled it is to protection by man from the cruelty of man.”

In the eyes of the Scottish people, mounted foxhunting is simply unconscionable and will not be tolerated within our civilised nation and this review has a duty to outlaw this anachronistic, distasteful, cruel and wholly unnecessary form of entertainment once and for all.

SUGGESTED AMENDMENTS TO THE ACT

- It must be recognised within law that mounted foxhunting is not a pest control method
- Mounted foxhunting must be recognised as a form of entertainment for the few people who indulge in it.
- As it is merely a form of entertainment it is wholly unnecessary and given the distress it causes to the majority of the population (let alone to the wildlife), those who wish to continue this pastime must be prepared to adopt major changes
- As this is not a form of pest control, no fox should be injured or killed during any hunt. The current practice of flushing the fox out to waiting guns has been abused to mask traditional hunting where the fox is killed by the dogs and more importantly the use of firearms around people and animals is extremely dangerous. Any fox be injured or killed by any means during the hunt is an offence under the Act.
- No fox should be extracted or flushed out when it has gone to ground. Mounted foxhunting is not a pest control method. This should prevent interference with and disturbance of badger setts and other wildlife habitats.
- The active pursuit of a fox must be limited to a maximum of 30 seconds. Should any dog continue its pursuit beyond this time limit, it should be deemed out of control and the hunt is in breach of the law.
- All dogs present on hunts must be muzzled to prevent biting wildlife.
- Mounted foxhunts must be limited to ONE dog only. Not more than ONE.
- There must be public notification of the date, time and location of any proposed hunt. This will enable spectators and possibly video footage and should encourage compliance with the law.
- Mounted foxhunts must pay for police presence at every hunt event.
- Every single participant must apply for a licence for every hunting event and these must be rigorously checked to ensure no unlicensed person participates in mounted foxhunting.

- Land-owners who permit mounted foxhunting on their land must apply for a licence prior to each hunt. Again these should be rigorously checked.
- This licensing will facilitate prosecutions and convictions. Should a hunt be in breach of the law **every** participant and the land-owner must be held responsible and prosecuted.
- Should any hunt stray onto land for which there is no land-owner's permission, then prosecutions under the Act should follow.
- Penalties for those convicted under the Act should be severe to reflect the abhorrence of the Scottish people for such activities. This Act should also be prioritised for police enforcement.
- Any minor "blooded" should be recognised as a victim of child abuse.
- The spirit of the law must be upheld, not just the letter of the law and failure to do so should result in prosecution.
- The wording of the law should be unambiguous. E.g. the law should state that it is an offence to **intentionally or recklessly** hunt wild mammals, not just that it is an offence to **deliberately** hunt wild mammals. This will prevent failure to convict as a result of people claiming it wasn't deliberate.
- There should be no loopholes, or exemptions which wreck the law despite the anticipated bleatings of the Countryside Alliance and their ilk.
- The will of the Scottish people and animal welfare must be paramount not the bloodlust of the elite.

REFERENCES

Burns, T 2000, *The Final Report of the Committee of Inquiry into Hunting with Dogs in England and Wales*, National Archives, <http://webarchive.nationalarchives.gov.uk/20130123162956/http://www.defra.gov.uk/rural/hunting/inquiry/mainsections/huntingreport.htm>

IFAW, League Against Cruel Sports and RSPCA. 2013, *The Hunting Act: Past, Present and Future*, <http://www.politicalanimal.org.uk/RSPCA/Hunting%20Act%20briefing%20Feb%202014.pdf>

Ipsos MORI, August 2001, *Seven Out Of Ten Scots Oppose Hunting With Dogs*, IFAW, <http://www.ipsos-mori.com/researchpublications/researcharchive/1287/Seven-Out-Of-Ten-Scots-Oppose-Hunting-With-Dogs.aspx>

MacDonald, D. W., & Johnson, P. J. (1996). The impact of sport hunting: a case study. In *The exploitation of mammal populations* (pp. 160-207). Springer Netherlands.

Stewart, A 2012, *Wildlife and the Law*, Argyll Publishing, Glendaruel, Argyll. ISBN 978 1 908931 15 3