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The Regulatory Reform (Game) Order 2007. SI 2007/2007.

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Final Regulatory Impact Assessment

This Regulatory Impact Assessment (RIA) is intended to provide an assessment of the expected impact of policy options for changes to the legislation concerning the killing, taking and dealing in game in England and Wales. It assesses the costs, benefits and risks of the policy options in order to provide information to help decision-makers. The assessment has been made using the best evidence available. In some instances it has been necessary to make assumptions and estimates where hard information is limited and to make informed estimates about the likely business response to policy measures.

Title of Proposal

Regulatory Reform Order (Game) 2007

Purpose and intended effect

Objective

1. To remove unnecessary economic and administrative burdens on the killing, taking and dealing in game in England and Wales.

Background

2. Live quarry shooting is an important part of the rural economy with an estimated 480,000 people currently actively shooting, providing the equivalent of 70,000 full time jobs and £1.6bn to the UK economy¹.
3. Under the current game legislation a person is required to obtain a licence to kill or take game and two separate licences to deal in game or venison. The key elements of the current game licensing system were put in place by the Game Act 1831 (the "1831 Act) and Game Licences Act 1860 (the "1860 Act"), collectively, "the Game Acts", and have remained fundamentally unchanged since then. As a result of economic, societal and legislative changes, the Government considers this licensing system to be out of date and no longer necessary.
4. The proposed draft Order seeks to reduce bureaucracy for those killing or taking game or dealing in game and venison and to prevent unnecessary restriction of their otherwise lawful activities. It will also save central Government resources which are currently being put into the administration of a licensing system which is not serving a useful purpose. The proposals do not affect the fundamental philosophy of the Game Acts; in particular there are no proposals to change game rights and poaching provisions.
5. The proposed Order will:
 - i. remove the requirement to obtain a licence to kill or take game;
 - ii. remove the requirement for those who deal in game to obtain a licence to deal in game and an excise licence;

¹ Public and Corporate Economic Consultants (PACEC) (2006) Shooting sports: Findings of an Economic and Environmental survey.

- iii. introduce a new offence of selling game birds killed or taken illegally;
- iv. remove the requirement for those who deal in venison to keep records as specified by the Deer Act 1991.

Rationale for Government intervention

6. The purpose of the current legislation has been undermined by developments which have occurred since it was introduced, and the administrative burden on stakeholders is to be evaluated in this light. The licensing system represents a cost to both game shooters and dealers, and the authorities administering it. It is thought that this cost is no longer justified. Issues regarding food hygiene, out of season shooting and taking, and poaching are considered adequately covered in legislation or are insignificant. Restrictions on close season game dealing create a distortion in the game market and may be unnecessarily limiting the expansion of the domestic game market to the detriment of both consumers and producers. Intervention is required in order to prevent a continued waste of administrative resources on the part of both the authorities and the public, reduce the economic losses associated with market distortions, and help consumer choice.
7. In July 1994, the then Home Secretary Michael Howard announced in response to a Parliamentary Question² that the licence to kill and take game would be abolished. In 1998 Lord Haskin's Better Regulation Task Force³ stated that "*there is also a case for removing some or all of the licences relating to the killing and selling of game. With criminal law in place against poaching, there seems no point in requiring every supermarket and butcher's shop to be licensed simply to sell game*". It recommended that a "*deregulation order should be introduced this year to remove licensing on the sale of game*".

Consultation

Within Government

8. Proposals for the abolition of the game licensing system have been the subject of inter-departmental consideration since the 1990s. The proposals in the draft order were approved by Cabinet Committee for consultation in July 2006.

Public Consultation

9. Key industry stakeholder views on the future of the game licensing system were sought as a part of the Cabinet Office Business Regulation Team report⁴ of June 2002. The report confirmed that there was a large degree of consensus amongst relevant industry bodies for the abolition of the licence to kill and take game and the removal of the restriction to sell game on a year round basis. During the preparation of that report major retailers in game called for the abolition of the licences to sell game. Further views

² Col 287, 20 July 1994

³ www.brc.gov.uk/downloads/pdf/cons_aff.pdf (Task Force Review of Consumer Affairs, May 1998)

⁴ http://www.cabinetoffice.gov.uk/regulation/documents/business_regulation/pdf/brtend.pdf

from the wider stakeholder community were obtained as a part of the Defra review of game licensing in 2004. Public consultation on the current proposals was carried out between 28 July and 20 October 2006.

10. The consultation paper put forward three key proposals for the proposed draft Order discussed in this RIA. These were:-
 - A. to remove the requirement to hold a game licence to take or kill game;
 - B. to remove the requirement to hold a local authority licence and excise licence in order to deal in game; and
 - C. remove the restriction on dealing in game birds and deer during the close season, permitting the sale all year round providing the game was lawfully killed.
11. An analysis of the responses to the consultation showed that for those who expressed a preference 74% supported proposal A; 90% supported proposal B and 92 % supported proposal C in relation to game birds and 89% supported the proposal in relation to deer.
12. Consultation was also carried out on consequential amendments arising from the proposals above. These included whether to retain record keeping requirements under the Deer Act 1991 and the introduction of a new offence which will prohibit the sale of game birds which have been unlawfully taken, and the burden of proof related to the introduction of that offence.
13. There was a limited response to both of the proposals. On the issue of retaining the deer recording requirement, two of the key stakeholders that did respond felt that this was unnecessary.
14. Most of those who expressed a preference supported the introduction of the new offence of selling illegally killed game birds. However, there was a difference of opinion on whether the burden of proof should fall to the prosecution or the seller of game.

Policy Proposals

(i) Remove the requirement to hold a game licence to take or kill game.

Options

Option (1) Do Nothing

15. This option would retain the current legislation for the killing, taking and dealing in game with no changes.
16. If it continues in its present form and without an increase in compliance and/or licence fees, there is a significant risk that the licensing system will make a financial loss. Difficulties with enforcement would remain as resources for wildlife crime is targeted at those areas that make a

contribution to wildlife conservation which the game licence does not.

Option (2) Remove the requirement to hold a game licence to take or kill game

17. This option would remove the need to obtain a licence to kill and take game.

18. Some landowners have argued that removing the requirement for a licence will remove a barrier to poaching. However, given that only an estimated 20% of shooters are compliant with the Game Acts and the fact poaching is adequately covered in existing legislation, it is unlikely that removing the need to obtain a licence will have a significant impact.

19. The current licensing fees are set at a level which covers administration costs. However, should the requirement for a licence be revoked, this potential mechanism for raising money (for example for conservation work) would be lost.

Option (3) Increase licence charges and use revenue to help fund game conservation

20. Licence charges could be increased with the aim of obtaining revenue from the system. This revenue could then be used to fund conservation work using the Environment Agency's fishing licensing system as a model. The last time that charges for licences to take or kill game were increased was in 1968. Consumer prices have increased approximately tenfold since 1968, so if the charges had been inflation-linked they would be in the region of £20 to £60 now.

21. Under this option costs to licence holders would increase significantly. A system to help fund conservation work would involve both setting up and running costs. Significantly increasing enforcement of the system in order to make it worthwhile in terms of revenue-raising would also demand substantial resource input. The administration of the system by the Post Office would have to be improved to ensure that licences are readily available from Post Office branches whenever they are required or an alternative method of issuing licences and collecting revenue developed.

22. There is a considerable risk that if licence charges are increased significantly then compliance will fall with the result that licence receipts will not cover the costs of the new system. It is unlikely that enforcement of the licensing provisions would increase above present levels.

Costs and Benefits

Option 1: Do Nothing

Benefits

23. The advantages of retaining the system in its current form are not felt to be significant. However two minor advantages we are aware of are:

- i. The lack of a game licence is very occasionally used by landowners as a first challenge against poachers. Additionally if

someone is caught for another offence, particularly armed trespass, then the lack of a game licence is sometimes used to increase the maximum fine available on conviction; and

- ii. Local authorities receive a limited amount of money from the sale of game licences. The details of these costs are discussed fully under Option 2.

Costs

24. Lord Haskins' Better Regulation Task Force argued in 1998⁵ that the game licence requirement was being ignored by a significant number of shooters, thus reducing its regulatory effect. Compliance has increased slightly over the last few years, largely we think as a result of a campaign by hunting groups to encourage people to buy a licence in order to indicate the strength of interest in hunting. However despite this, it is estimated that only about 20% of people who shoot game buy a licence.
25. The police are currently responsible for enforcing the system, with gamekeepers also able to require shooters to produce licences. However very little enforcement occurs. The number of prosecutions for taking game without a game licence cannot be separately identified from other 1831 Act offences in information held on the Home Office Court Proceedings Database. However, in 2004 a total of only 7 people were sentenced for offences under sections of the 1831 Act relevant to this proposal (3, 12, 23 & 24).
26. Due to the low level of compliance the revenue raised by the system has not always covered administration costs, and in 2004 was less than £100,000 above that required to cover costs.
27. Licences to take and kill game are issued by Post Offices, but generally only the larger Post Offices stock them. There have been problems with the availability of licences in the past. However if the game licence were to be retained, an improved system would have to be developed to ensure that licences are available more easily.

Option 2: Remove Requirement to hold a game licence.

Benefits

28. As set out under option 1, there are a number of problems with the current system. Option 2 would benefit individuals who wish to hunt by £2-6 annually depending on the type of licence. There are also associated administration costs in the time and effort required in order to buy a licence from a Post Office, especially given that buying a licence is only possible in the larger branches. The administrative burden on those requiring licences is estimated to cost £600,000 per annum at full compliance.
29. Option 2 would benefit Central Government by removing the need to pay the Post Office annual licence administration costs of £300,000. It would also remove the minimal costs to Defra of overseeing the system.

⁵ <http://www.brtf.gov.uk/taskforce/reports/entry%20pages/conaffentry.htm>

Costs

30. A mechanism for raising money would be lost if the requirement for a licence were to be removed. The system could, with substantial improvements, be used to raise a licence fee for the purpose of raising money for game conservation work (considered in Option 3.).
31. Under this proposal, local authorities would no longer receive the revenue from game licences, which amounts to £400,000 per year across all authorities in Great Britain. However, this is a relatively small amount of money and the loss of this revenue will likely have little or no impact.
32. Taking into account the costs and benefits discussed above the net value of removing the licence requirements is £900,000 (see table 1.)

TABLE 1

	Value of Benefit (£) per annum
Individuals licence costs	400,000
Individuals Licence Admin Costs	600,000
Government Licence Admin Costs	300,000
Licence Revenue for local Authorities	- 400,000 (cost)
Net benefit	900,000

Option 3: Increase charges to fund game conservation

Benefits

33. Funding could be provided for game conservation work. The level of revenue would be dependent on the licence fee set and the levels of compliance. For example, the fishing licensing system administered by the Environment Agency raised about £15 million in 2003. Annual fishing licences cost either £23 or £62 (depending on species covered), and compliance is estimated to be as high as 95% amongst those who fish regularly. Fishing licences are enforced by up to 300 part time officers.
34. As in option 1, if someone is caught for another offence, particularly armed trespass, then the lack of a game licence is sometimes used to increase the maximum fine available on conviction. The lack of a game licence is also occasionally used by landowners as a first challenge to poachers.

Costs

35. Costs to licence holders would probably need to increase significantly to cover the set up and running costs. Significantly increasing enforcement of the system would be required in order to make it worthwhile in terms of revenue-raising would also require substantial resource input. It would be difficult to achieve high levels of enforcement for the game licence in view of the geographically dispersed nature of the activities undertaken by game shooters compared to those involved in licences for fisheries, which by their nature are more linear based. The administration of the system would also have to be improved to ensure that licences are readily

available from the Post Office branches whenever they are requested or an alternative distribution network established.

(ii) Remove the requirement for licences in order to deal in game

Options

36. Currently game dealers are required to hold both a local authority licence and an excise licence to deal in game. It is proposed that the requirement for these licences is removed and dealers are permitted to deal in game all year round provided it is lawfully killed.

Option 1: Do Nothing

37. This would retain the current legislation and dealers in game would need to buy a local authority licence and an excise licence.

38. However, there are inequalities in licence fees and arrangements between local authorities. Under this option these would persist unless there was an extensive review of the current arrangements.

39. Offences for dealing in game by unlicensed individuals are listed under sections, 25, 27 and 28 of the 1831 Act. There is very limited enforcement of the 1831 Act with only 4 people prosecuted in 2004.

Option 2: Remove the requirement for licences in order to deal in game

40. This proposal would remove the requirement for possession of both a local authority licence and excise license to deal in game and venison. This would remove inequalities in licensing for game dealers across different local authorities.

Costs and Benefits

Option 1: Do nothing

Benefits

41. Local authorities receive a limited amount of revenue from this system. Comprehensive data do not exist on the costs of local authority licences, but the costs are believed to range from less than £1 to £340. Excise licences costs £4. Limited data exists on the number of game dealers across the country. The number of excise licences sold by Post Offices (across Great Britain) was 1621 in 2004, but there are likely to be many more game dealers.

42. Currently one of the requirements of holding a local authority licence is that a plaque is displayed on the premises indicating that the retailer is licensed to deal in game. This requirement is of negligible cost to the licence holder, not enforced and some retailers are not even aware of it. Some game dealers may feel that being a 'licensed dealer' and displaying a plaque accordingly is a useful selling point. However, it is the Government's view that the 'licensed game dealer' status and possible presence of a plaque are not significant enough benefits to warrant retaining either of the two game dealing licences.

Costs

43. Lord Haskins' Better Regulation Task Force argued in 1998⁶ that there seems no point in retail outlets having to be licensed if they want to sell game. The licensing process is not linked to food standards enforcement and game dealing licences do not provide any wildlife protection. The system would not appear to be of any value and is at odds with the Government's commitment to 'Better Regulation' – specifically to deregulating and simplifying existing legislation wherever possible.
44. Part of the original reason for requiring the local authority licence in the early 19th century was thought to be to ensure good hygiene standards. However game processors and retailers are now covered by a comprehensive range of food hygiene and safety regulations. Neither of the game dealing licences covers food safety issues.
45. A Better Regulation Unit review in 2002 found that some retailers wanted to retain the requirement for a local authority licence. They felt that it might deter 'rogue traders' and un-regulated traders who are not feeding into the local economy. However food safety regulations ensure that retailers cannot operate without controls over their activities, and neither the local authority licence nor the excise licence appears to provide any additional controls on rogue trading over and above the food safety regulations.
46. The current licensing system for dealing in game carries an administrative burden of approximately £75,000 for licence applicants with an added cost of £25,000 for licence fees. This would persist if the licensing requirement is maintained.
47. It is thought that a number of local authorities do not require a local authority licence for dealing in game. There is also massive inconsistency between local authorities with regards to the fees charged for local authority licences - some provide free licences, others charge. Comprehensive data do not exist on the costs of local authority licences, but the costs are thought to range from £1 to £340. There are also inconsistencies about licence details: some authorities require a named holder of a licence but most allow the licence to be in the company name; some require all premises to be licensed and others only require each company to have a licence. If the licences were to be retained there would be a need to put in place a licensing system that is more equitable across the country.

Option 2: Remove the requirement for licences in order to deal in game

Benefits

48. This option would remove the costs to game dealers of buying a local authority licence and an excise licence. This would remove the associated

⁶ http://www.brtf.gov.uk/docs/pdf/cons_aff.pdf (Task Force Review of Consumer Affairs, May 1998)

administrative and licensing burden.

49. Removing the licence would remove the requirement for the Government to provide resource to oversee the system.
50. The removal of the need for a licence to deal in game and permitting game to be sold on a year round basis may lead to an increase in the sale of illegally killed game, particularly game killed during the close season. It is the Government's view that wildlife protection will not be threatened by allowing the selling of game birds during the close season. Game dealers can already sell foreign sourced game birds, which are virtually indistinguishable from native birds. It will continue to be an offence to kill or take game birds outside of the relevant open season.
51. For deer, currently only licensed game dealers can sell venison in the prohibited period. Under the new proposals there would be no licensed game dealers and there would be no restrictions on who could sell venison at any time of year. However, it is the close seasons which offer the main protection for deer as they prohibit the taking or killing of deer at certain times of year which are critical for deer protection. The Government does not believe that the proposal will have any adverse effect on the conservation of deer.

Costs

52. There is a risk that relaxation of the legislation to allow trading in game and venison during the closed season will encourage the sale of game and venison taken illegally during the closed season. The Government's view is that wildlife protection will not be threatened by allowing the selling of game birds or venison during the close season. Additionally through the proposed draft order, the Government will implement new legislation which will prohibit the sale of illegally killed game.
53. As set out in paragraph 42, some game dealers may feel that being a 'licensed dealer' and displaying a plaque accordingly is a useful selling point. Removal of the licensing requirement may have a negative impact on this, although government feels that this is unlikely.

(iii) Remove the restrictions on dealing in game birds and deer during the close season.

Options

Option 1: Do Nothing

54. This would maintain the situation whereby dealers in game birds would be prohibited from selling game birds 10 days after the close of the open season. This would continue to limit the availability of domestic game bird meat to the domestic market while allowing the sale of imported game birds to continue. Imported game birds are exempt from the sales restrictions under the Game Act 1831 (see *Guyer v The Queen* (1889)). The 'do nothing' option would allow this anomaly to continue ensuring that the sale of domestic game birds remains at a competitive disadvantage

over the sale of imported game. This may be contributing to limiting the market for domestic game.

55. Farmed venison and legally killed wild venison can be sold through licensed game dealers on a year round basis. However, unlicensed dealers (usually stalkers and deer managers) are only permitted to sell venison to licensed dealers during the open season (plus 10 days). This creates an inequality where those responsible for managing deer are unable to profit equally from their activities.

Option 2: Remove the restriction on dealing in game birds and deer during the close season

56. There is an argument that game and wild venison is marketed as seasonal produce, and this selling point will be lost if it can be sold all year round. However, there is no evidence that the marketability of game would be compromised by the removal of the restriction.

57. By removing restrictions on sale during the close season, there is a risk that game birds and deer which have been taken unlawfully (e.g. poached or taken during the close season) could be lawfully sold. Currently there is no requirement that game birds have to be lawfully killed or taken before they can be lawfully sold. There is currently a requirement for venison bought or sold to have been lawfully killed or taken (see sections 10(3) and (4) of the Deer Act 1991) and we are not considering amending this requirement.

Costs and Benefits

Option 1: Do nothing

Benefits

58. Given increasing market for fresh, locally sourced food, the seasonality of game is of value when marketing the produce, and this could be lost if restrictions on dealing are not maintained. However, the Government's view is that it is for retailers to decide when they sell and how they market game.

Costs

59. Currently suppliers of domestic game are at a competitive disadvantage as imported game may be sold at any time of the year. This may be contributing to limiting the market for domestic game.
60. Equally those who are responsible for the management of deer can not take full advantage of the profit from selling killed deer as they are required to sell their animals through a licensed dealer.
61. The Government is proposing a separate Regulatory Reform Order for changes to the legislation governing deer management. Consultation on this Order closed on the 24 October 2006. Under this proposed draft Order a licensing system will be introduced to kill deer out of season where they are causing serious damage to natural habitats, property or

affecting public health and safety. An ability to sell the venison from culled animals would be beneficial should that proposed draft Order be approved.

Option 2: Remove the restriction on dealing in game during the close season.

Benefits

62. In most other European countries game forms part of the average diet, but in Britain game represents only 1% of total meat consumption. The game meat market has long been restricted by lack of consumer knowledge about the nutritional values of game meat, compounded by the lack of availability of game meat in supermarkets and butchers. The proposed change would allow retailers to sell domestic game and venison all year round provided that the animal was lawfully taken. This would remove the competitive disadvantage thought to be experienced by domestic game retailers and may improve the market for domestic game.

63. Many consumers do not have access to outlets such as butchers (which have seen a 26% decline in numbers between 1998 and 2002) and this has resulted in many consumers not knowing where to buy game⁷. Being able to supply game all year round may help dealers market to supermarkets, which can improve consumer choice. An increase in game sales would in itself represent a net economic gain.

64. The game market is currently experiencing a distortion in supply due to the restrictions, which may be detrimental to economic welfare. For example, domestic consumers may be being forced to pay higher prices for imported game where cheaper domestically produced game would be available if the legislation was changed. On the other hand, domestic producers may be exporting game at cost when there would be sufficient domestic demand at home to meet supply. Exports of game appear significant, with 85% of British game exported to the continent⁸. Removing restrictions can help the domestic game market reach its appropriate price level based on production costs and demand levels. This could help achieve the optimal trade flow and reduce the economic losses of a misallocation of goods and productive resources.

Costs

65. Some may argue that game is marketed as seasonal produce, and this selling point will be lost if it can be sold all year round. However, it is for the retailers to decide when they sell and how they market game and consumers to decide when they buy it.

66. By removing the restriction on sale during the close season, there is a risk that game birds and deer which have been taken unlawfully could be lawfully sold. Currently there is no requirement that game birds have to have been lawfully killed or taken before they can be lawfully sold. The Government set out two possible options to address this issue for game

⁷ Mintel (2004) Game and Exotic Meat, Market Intelligence

⁸ Mintel (2004) Game and Exotic Meat, Market Intelligence

birds (below). There is currently a requirement for venison bought or sold to have been lawfully killed or taken (sections 10(3) and (4) of the Deer Act 1991) and we are not considering amending this requirement.

(iv) Further considerations for the sale of game birds

Options

67. As mentioned in paragraph 56 above, the Government are considering measures to mitigate the risk that illegally killed game birds could enter the market if the restriction on all year selling is removed. In assessing this proposal there are 3 options which are set out below:

Option 1: Do Nothing

68. This option would maintain the perverse legal situation where illegally killed game birds can be sold legally.

Option 2A: Introduce an offence of selling unlawfully killed game birds with the burden of proof lying with the prosecuting authority.

69. Under this option it would be an offence to sell etc. any game birds which have been unlawfully killed or taken (i.e. killed or taken in circumstances which constitute an offence under the Night Poaching Act 1828, the 1831 Act, the Poaching Prevention Act 1862 or Part I of the Wildlife and Countryside Act 1981) where the person concerned knew or had reason to believe that it was unlawfully killed or taken.

70. The prosecution would have to show that a game bird had been offered for sale or sold etc., that the bird was unlawfully killed or taken and that the accused knew or had reason to believe that it was unlawfully killed or taken. In the absence of record keeping requirements on the part of the dealer, these elements may be very difficult for the prosecution to prove. However, record keeping under Regulation 178/2002 will provide some information which could be used to aid the enforcement of this offence.

Option 2B Introduce an offence of selling unlawfully killed game birds with the burden of proof lying with game dealers.

71. Under this option, it would be an offence to sell etc. any game birds which have been unlawfully killed or taken. The prosecution would need to prove that a game bird had been offered for sale or sold etc. and that the bird had been unlawfully killed or taken. However, the accused would be required to show that he did not know nor had reason to believe that the bird was unlawfully killed or taken.

72. This option reverses the burden of proof from the prosecution to the game bird dealer. Records kept under Regulation 178/2002 may be insufficient in some cases to demonstrate the innocence of the dealer. The Government are not aware that the level of illegal dealing in game birds warrants imposing this added burden to dealers in game.

Costs and Benefits

Option 1: Do nothing.

Benefits

73. There are no benefits to maintaining this position.

Costs

74. If restrictions on year round sale are lifted this could lead to an increase in the occurrence of illegal killing to meet the demands of the market. This option would also be contrary to the United Kingdom's obligations under Article 6 of the EC Wild Birds Directive⁹ under which Member States can only allow the sale of species listed on Annex III to that Directive¹⁰ if they have been legally killed or captured or otherwise legally acquired.

Option 2A

Benefits

75. People who sell game would not need to be able to show they did not know, nor had reason to believe that the game bird was not lawfully killed or taken during the relevant open season. This is consistent with the similar offence for selling venison.

Costs

76. The prosecuting authority may find it difficult to prove that the accused knew or had reason to believe that the game bird was unlawfully taken.

Option 2B

Benefits

77. In option 2B the prosecuting authority is likely to find it easier to enforce the new offence as they will not need to find evidence to show, beyond all reasonable doubt, that the person accused knew or had reason to believe that the game bird in question was unlawfully killed or taken. Instead, it would be the person accused that would need to show their knowledge at the time of sale. Game handlers will be able to refer to records kept under Regulation 178/2002 to help them show this.

Costs

78. It is not anticipated that the level of illegal dealing in game birds will increase significantly as a result of proposal iii. For that reason the Government does not consider imposing an added burden on dealers is warranted. Although certain dealers will have records kept under Regulation 178/2002, these may be insufficient in some cases to demonstrate the innocence of the dealer. Option 2A may require dealers in game birds to keep additional records and taking this into consideration option 2B would be preferable.

(v) Further considerations for the sale of deer

Options

⁹ Council Directive of 2 April 1979 on the Conservation of Wild Birds (79/409/EEC)

¹⁰ Annex III includes all species of birds whose sale is regulated by the Game Act 1831.

79. Under section 11 of the Deer Act 1991, licensed dealers are to keep records of their sales and purchases of venison. If Proposal (iii) is taken forward, there will no longer be licensed dealers; consequently this section will need to be amended. There are two options available: namely to either re-instate or not re-instate the record keeping requirements under section 11. Option 2 is the Government's preferred option.

Option 1: Amend section 11 of the Deer Act 1991 so that all those dealing in venison have to keep record of venison sales and purchases.

80. No reduction in the record keeping bureaucracy for game dealers who deal in venison. Game dealers who deal in venison would continue to be required to keep records for two different purposes, one under the Deer Act 1991 and one under Regulation 178/2002.

Option 2: Game dealers will no longer be required to keep records for purposes under Section 11 of the Deer Act 1991.

81. The record keeping requirements under regulation 178/2002 are not as detailed as those in the Deer Act 1991. As a result there may be a loss of information useful to enforcement authorities as section 11 also records information for purposes to protect against poaching and the use of prohibited methods.

Costs and Benefits

Option 1: Amend section 11 of the Deer Act 1991 so that those dealing in venison have to keep record of venison sales and purchases.

Benefits

82. There will be no substantive changes to the present requirements for dealers currently licensed; records of sales and purchases of venison will be kept by all game dealers. The enforcement of sections 10(3) and (4) of the Deer Act 1991 will continue to be facilitated by the availability of records through section 11 of the Deer Act 1991.

Costs

83. All those dealing in game would need to keep records of their sales and purchases. For those also covered by Regulation 178/2002 two sets of records would need to be kept, for two different purposes.

Option 2: Game dealers will no longer be required to keep records for purposes under Section 11 of the Deer Act 1991.

Benefits

84. The reporting requirements on game dealers will be simplified and only records required under regulation 178/2002 will be needed. This should produce a reduction of the administrative burden of around £6,500 per annum.

85. Game dealers would no longer be required to keep detailed records of venison purchases and sales under the Deer Act 1991, but will still be required to keep records under regulation 178/2002.

Costs

86. Game dealers may be able to rely upon the record keeping requirements under the Regulation 178/2002. However, the record keeping requirements are not as detailed as those in the Deer Act 1991. There may also be a loss of information useful to enforcement authorities as section 11 also records information that could be used for purposes to protect against poaching and the use of prohibited methods to kill deer.
87. The Government's preference is for option 2 as it reduces an unnecessary burden on sellers of wild venison as the record keeping requirements under regulation 178/2002 are considered adequate.

Small firms impact test

88. The proposal to remove the requirement for a game licence is not believed to have any significant implications for small businesses. Defra has discussed proposals with the Post Office. Post Offices will lose the current revenue of £300,000 which is distributed across the Post Office network.
89. The proposal to remove the requirement for local authority and excise licences is deregulatory for small businesses. However as set out above, some game dealers may perceive that the possession of a licence acts as an assurance of quality for customers.
90. Permitting game to be sold out of season will be beneficial for game dealers as it will allow them to sell both domestically sourced as well as internationally source game throughout the year provided that it has been taken legally.
91. Removing the requirement to keep records under the Deer Act 1991 would reduce the burden on those small businesses engaged in the selling of venison.

Competition assessment

92. The proposals listed in this document are not believed to have any competition implications other than improving the competitiveness of suppliers of domestic game in relation to international suppliers.

Enforcement, sanctions and monitoring

93. The proposals remove the requirement to enforce the licensing provisions of the Game Acts. The new offence of selling an illegally taken game bird will bring the legislation regarding game birds in line with that concerning other species of birds subject to hunting, bringing consistency in enforcement for all bird species. Responsibility for the enforcement of the new offence will rest primarily with the police.

Implementation and delivery plan

94. Defra will continue to keep stakeholders informed of the progress of the Order. To avoid any unnecessary bureaucracy, the proposed draft Order is planned to come into force before the start of the grouse hunting season on 12th August 2007. Defra will develop a communication strategy to inform key stakeholders of the changes in the Order to ensure they are

aware of the date of commencement of the Order at least 2 weeks before the Order comes into force.

Post-implementation review

95. Currently, there are no plans for a formal review of the proposed changes. Population of those species covered by the Game Acts will continue to be monitored under existing arrangements. Defra recognises that deregulation of the game licensing system may increase the numbers of birds shot and is seeking ways of monitoring game bags as a part of wider measures to assess the level of hunting on all huntable species. These data will be used to assess if there are any noticeable declines in game bird species as a result of hunting pressure in England and Wales. The Government will continue to liaise with the Law Commission over a possible consolidation of the remaining legislation relating to game and will consider what, if any further revisions to the 1831 Act are required, including those proposals contained in Part 2 of the consultation document.

Summary and recommendations

96. The game licensing system no longer provides any environmental, social or economic benefits. The licensing system has been earmarked for deregulation for over ten years, and the abolition of the licensing regime was supported by the majority of those who responded to the consultation. On this basis it is recommended that the licence required to take game, and the two licences required to sell game are abolished. It is also recommended that an offence of selling illegally killed game birds is introduced, with the burden of proof falling to the prosecution. Finally, the recording requirement for dealers in venison should be removed.

Declaration and publication

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed by the responsible Minister

Barry Gardiner MP
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

Date

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