

HUNTING OF WILD MAMMALS BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by John Blair MLA (“the Member”), to assist the reader of the Bill and to help inform the debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum should be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill, and where part of a clause does not seem to require any explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Welfare of Animals Act (Northern Ireland) 2011 (“the WOA Act”) is currently the primary legislation governing animal welfare in Northern Ireland. Section 53 specifically exempts hunting and coursing from the provisions of the WOA Act (which applies to certain “protected animals”), albeit with some exemptions. It is not, however, the sole relevant legislation to note in this area.
4. The Wildlife and Natural Environment Act (Northern Ireland) 2011 (“the WNE Act”) introduced a ban on hare coursing but as things stand, legislation relating to dogs covers attacks on people, livestock and some animals rather than hunting wild mammals.
5. The Wildlife (Northern Ireland) Order 1985 fully protects badgers, pine martens, and red squirrels and partially protects some other animals. This list was extended by the WNE Act. The Dogs (Amendment) Act (Northern Ireland) 2011 deals with attacks by dogs on people, livestock and other animals owned by people.
6. Northern Ireland remains the only part of the United Kingdom without a ban on hunting with dogs, which includes hunting foxes. The Member notes there has been a strong lobby in Northern Ireland to ban hunting with dogs, and other perceived cruel sports. A League Against Cruel Sports survey in 2019 suggested 84% of respondents believe hunting live deer with dogs should be illegal, while 76% felt hunting foxes with dogs should be banned.

7. The Bill aims to introduce a ban on hunting wild mammals to the death with dogs. The Member notes that without introducing legislation, the practice cannot be banned. The Member also intends for the legislation to facilitate prosecutions and to act as a deterrent for future hunting, using dogs, to kill wild mammals. The Member is conscious of apparent loopholes in the legislation in other jurisdictions, such as trail hunting being used as cover for proscribed fox hunting. Accordingly, provision to address this has been included in the Bill.
8. It is important to stress that the proposed Bill seeks to affect no country sports other than hunting with dogs for the kill. The Bill is not intended to, in any way, restrict traditional country sports such as shooting, using gun dogs, or angling. The Bill also maintains appropriate balance by exempting hunting from the ban in certain circumstances, including avoiding damage to livestock, crops or property and causing damage to the biological diversity of an area.
9. The Hunting of Wild Mammals Bill has a number of policy objectives:
 - a. To ban the hunting of wild mammals with dogs with a definition broad enough to include deer, foxes, rabbits, hares and mink;
 - b. To ban “trail hunting” (defined as: any process in which one or more dogs are induced or permitted to follow the scent of a wild mammal (whether the trail of scent has been laid naturally or by human intervention));
 - c. To ban “terrier work” (defined as a process in which dogs are induced to enter a hole in the ground in order to flush out or otherwise force a wild mammal to leave the hole, or in order to make it easier or quicker to dig a wild mammal out of the hole.);
 - d. To create associated criminal offences and penalties; and
 - e. To require the Department of Agriculture, Environment and Rural Affairs (“DAERA”) to review and report on the operation of the legislation at least once in each period of five years.

CONSULTATION

10. The Member conducted a consultation exercise over an eight-week period between December 2020 and February 2021. There were 18,500 responses with an overwhelming majority of respondents (78.16%) saying all hunting, searching, coursing, capturing or killing wild mammals with dogs should be banned in Northern Ireland. The Member also shared his legislative proposal with the Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland.

OPTIONS CONSIDERED

11. **Option 1:** Do Nothing.
12. **Option 2:** Proceed with a Bill to ban the hunting of wild mammals with dogs.

Following consultation and deliberation, the Member considers that creating primary legislation is the best mechanism by which to achieve the policy objectives comprehensively and to introduce appropriate penalties for breaches of the proposed law. The Bill will bring a consequential amendment to the WOA Act to ensure a coherent statutory framework is in place.

OVERVIEW

13. The Bill has 10 clauses and no schedules. A commentary on each of the clauses follows below.

COMMENTARY ON CLAUSES

Clause 1 Hunting wild mammals with dogs: makes it a criminal offence to organise or participate in the hunting of wild mammals with dogs.

Clause 2 Trail hunting: makes it a criminal offence to organise or participate in a trail hunt, where dogs follow the scent of a wild mammal.

Clause 3 Terrier work: makes it a criminal offence to send terriers underground in the course of hunting wild mammals.

Clause 4 Exempt hunting: exempts hunting from the prohibition in **clause 1** if it is confined to hunting rats or mice, or if it complies with listed conditions.

Clause 5 Penalties: sets the maximum penalties for offences under the Act.

Clause 6 Interpretation: defines terms.

Clause 7 Consequential amendment: makes a consequential amendment to section 53 of the Welfare of Animals Act (Northern Ireland) 2011 to clarify that the breadth of the offences provided by this Act are not prejudiced by the savings in that Act.

Clause 8 Review: requires the Department of Agriculture, Environment and Rural Affairs to carry out periodic reviews of the operation of the Act.

Clause 9 Commencement: provides for the Act to come into force 6 months after Royal Assent.

Clause 10 Short title: gives the Bill its short title.

FINANCIAL EFFECTS OF THE BILL

14. The Member is conscious that the financial effects of the Bill will derive in significant part from the enforcement of its provisions. The Police Service of Northern Ireland (“PSNI”) was unable to provide an estimate of enforcement-related cost and staff requirements under its duties provided by existing legislation. The PSNI did not provide an estimate for any additional costs arising in terms of staffing and budget attaching to the proposals. They noted this would depend on the provisions of the Bill and any shared enforcement role with other agencies. DAERA was similarly unable to provide data about potential costs accruing to the Department. Consequently, it has been challenging to quantify the financial effects of the Bill in this area. The Member welcomes further discussion on these issues following the Bill’s introduction.
15. Furthermore, a constraining factor in seeking to estimate costs is the very limited post-implementation data available from other jurisdictions.
16. However, it is clear from the experience of pre-legislation research in other jurisdictions that there are likely to be some financial impacts associated with the prohibition on hunting:
 - Some job losses including those directly employed by hunts and those directly employed in hunting-related activities; and
 - Some loss of expenditure in the economy. The analysis that preceded the introduction of the Scottish legislation suggested this loss would largely stem from a decrease in expenditure on hunting supplies. The analysis that preceded the 2004 Act in England and Wales found that any economic effects would be “unlikely to be substantial” on a national scale, but did warn of more serious local effects.
17. Given the passage of time since these Reports were published, caution should be exercised in relation to their findings and the Member welcomes further discussion on the issues raised by the Bill.
18. For some context of the cost and impact of enforcement in proportion to the scale of the activity, an analysis of the Hunting Act 2004 in England and Wales made a number of findings including:
 - In 2020, the conviction rate under the 2004 Act – 68% – was much lower than the overall conviction rate for all cases proceeded with in the same year – 85%. The 2020 figure showed a higher conviction rate than the longer term average (58% during 2005-2020 overall) and the Member welcomes discussion on this.

- The most common form of sentence under the Act was a fine ranging from £224 on average in 2013, to £436 on average in 2020.
- Cases taken under the Act represented a negligible proportion – less than 0.003% of the total number of cases taken in 2020.

HUMAN RIGHTS ISSUES

19. The Member is satisfied that the Bill is human rights compliant.

EQUALITY IMPACT ASSESSMENT

20. An Equality Impact Assessment has not been undertaken, as communications between the Member and the Equality Commission and legal advice the Member has received did not identify any equality implications of the Bill. Therefore, it is considered the Bill will not have an adverse impact on any of the groups identified in Section 75 of the Northern Ireland Act 1998.

LEGISLATIVE COMPETENCE

21. At Introduction, the Sponsor of the Bill, Mr John Blair MLA, had made the following statement under Standing Order 30:

“In my view the Hunting of Wild Mammals Bill would be within the legislative competence of the Northern Ireland Assembly”.

SECRETARY OF STATE CONSENT

22. It is considered the Secretary of State’s consent under section 8 of the Northern Ireland Act 1998 is not required for this Bill.



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ISBN: 978-1-78619-490-9