



# HUNTING WITH DOGS

A GUIDE TO THE HUNTING ACT

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# INTRODUCTION



**On 18th November 2004 the Hunting Act was passed which controlled the hunting of wild mammals with dogs and prohibited hare coursing in England and Wales. The offences are all summary-only and commencement of proceedings strictly limited to 6 months from the date of offence. There can be no attempt to commit an offence under this Act and there is no provision for obtaining a search warrant. There are, however, useful police powers of stop and search (including premises other than a dwelling) and of seizure (under section 8), and a provision (under section 9) allowing a court to order forfeiture of vehicles, dogs, hunting implements, etc. on conviction.**

The statutory aim of the Hunting Act, as discerned by the High Court (DPP v Wright 2009), was a composite one of preventing or reducing unnecessary suffering to wild mammals overlaid by a moral viewpoint that causing suffering to animals for sport is unethical and should, so far as practical and proportionate, be stopped. The court also concluded that there were, however, competing considerations such that the ban on hunting wild mammals with dogs was not absolute. Perhaps the main relevant competing consideration was the need to retain the lawful possibility of using dogs to control wild mammals which, the court said, farmers and others are entitled to regard as pests.

It will be seen, therefore, that the Hunting Act is not an absolute ban on the hunting of wild mammals with dogs because some hunting, in some circumstances, is permitted. The position with hare coursing is more straightforward as the offences under section 5 are all-encompassing and there are no exemptions for hare coursing.

Under section 1, a person commits an offence if he hunts a wild mammal with a dog, unless his hunting is exempt. There are several classes of exempt hunting which are listed under Schedule 1, each with a number of conditions, all of which must be adhered to if the hunting is to be lawful. In addition, it remains legal to hunt a scent trail laid in advance by a human being, rather than a scent left naturally by a live animal such as a fox, hare or deer. The form of scent hunting said to have been adopted by hunts since the Hunting Act 2004 was passed is called 'trail hunting'. It is important to know that 'trail hunting' is not the same as 'drag hunting', as we shall discuss later. The two terms are often confused and suspects in interview (and their legal advisors) will quickly realise that the interviewer does not fully understand the issues if the wrong terminology is used.

Theoretically, there is nothing to prevent a hunt claiming to be participating in different types of hunting throughout the day; for example, trail hunting and switching to exempt hunting and back again so long as the conditions for each respective form of exempt hunting being claimed is fulfilled. The High Court, in reviewing the Hunting Act, said the question whether a person 'hunts' a wild mammal with a dog is heavily fact-specific, and did not attempt to define, by reference to any particular hypothetical circumstances, when hunting takes place for the purpose of the 2004 Act and when it does not.

The term 'hunting' should not be understood in its ordinary English meaning, as that would include searching for a wild mammal. The High Court stated that mere searching alone is not sufficient to be deemed hunting, but once a wild mammal has been identified, either by sight or scent, and a pursuit begins, then the searching becomes hunting.

The Hunting Act refers only to the hunting of wild mammals, not wild birds. For an offence to be committed it must be proved in the first instance that a wild mammal was pursued by one or more dogs. In practice it will be necessary to provide evidence that a wild mammal was present, unless other compelling evidence is available such as an admission of what was being hunted. Note that it is not necessary for the wild mammal to have been killed by the dogs for an offence to have been committed; the offence is complete when the pursuit begins. It must also be proved that the hunting of a wild mammal with dogs was intentional, as the accidental or inadvertent hunting of a wild mammal with one or more dogs is not an offence under the Act. Therefore, to prove an offence of illegal hunting it would be necessary to show that the defendant(s) engaged and participated in the hunting of a wild mammal with one or more dogs and that this was their intention.

## Hunting wild mammals with dogs

Under section 11(2) of the Act, a reference to a person hunting a wild mammal with a dog includes any case where a person engages or participates in the pursuit of a wild mammal and one or more dogs are employed in that pursuit. The offence of hunting a wild mammal with one or more dogs can include not only the person directing or controlling the dogs but also others involved in the hunting such as the whipper-in, whose role is to assist the huntsman in controlling the dogs, and hunt supporters who signal the presence of a wild mammal to the huntsman or surround a covert to prevent the pursued mammal from escaping. These individuals are engaged and participating in the hunting rather than merely observing.

## EXEMPT HUNTING

A person commits an offence if he hunts a wild mammal with a dog, unless his hunting is exempt

*Hunting Act 2004, Chapter 37, Part 1, Offences, Section 1*

Certain forms of hunting, very closely defined in **Schedule 1**, are exempt namely:

- Stalking and flushing out a wild mammal for certain purposes, with a view to its being shot forthwith, and not using more than two dogs;
- Use of not more than one dog at a time below ground in the course of stalking or flushing to protect birds for shooting;
- Hunting rats;
- Hunting rabbits;
- Retrieval of shot hares;
- Flushing a wild mammal from cover in connection with falconry;
- Recapture of accidentally escaped wild mammal;
- Rescue of wild mammal believed injured using not more than two dogs and no dog below ground; and
- Observation and study of a wild mammal, using not more than two dogs and no dog below ground.

For any given type of exempt hunting ALL the conditions associated with it must be fulfilled in order for the hunting to be lawful. In all 9 exemptions, hunting can only be carried out by the landowner/occupier or with the landowner/occupier's permission. Trespassers cannot hunt under an exemption.

## Exemptions: Stalking and flushing out

The following conditions apply:

- The stalking and flushing out is undertaken for a number of pest control purposes, obtaining meat to be used for human or animal consumption, or participation in a field trial.
- The hunting takes place on land that belongs to the hunter; or that the hunter has permission from the landowner/ occupier to hunt on his land
- No more than two dogs are used
- Each dog is kept under sufficiently close control
- The stalking or flushing out does not involve the use of a dog below ground
- Reasonable steps must be taken to ensure that as soon as possible after being found or flushed out the wild mammal is shot dead by a competent person

## POINTS TO CONSIDER:

**Pursuit:** Was the wild mammal pursued after it was flushed from cover or found? Was it possible for the animal to escape from cover? For example, traditional cub hunting activities include preventing foxes from escaping from cover.

R – v – Down & Pillivant 2007:

“Flushing from cover means causing an animal to move from a position in which it is protected by the nature of its surroundings, into a position where a competent marksman can shoot it.

“If the process of flushing out has ceased...the continued pursuit of an animal by hounds will be illegal.”

**Dogs:** Were more than two dogs being used? Was/were the dog/s under close control?

**Permission:** Did the hunter have express permission from the landowner/occupier to hunt (not just to be on the land)?

**Guns:** The guns must be positioned so that the wild mammal can be shot dead as soon as possible after being found or flushed from cover. Were there sufficient/any guns present and positioned to ensure that the wild mammal was shot as soon as possible? Were suitable firearms deployed?

**Purpose of the event:** Is it possible to demonstrate that the purpose of the event was pest control? Is there evidence that the primary purpose of the hunting was for sport and recreation? Was the hunt advertised? If so, how far in advance was the hunt advertised? Often hunt meets

are arranged and advertised (if only to members and supporters) weeks or months in advance, and payment is required or requested if people want to go and watch the hunt taking place, which would suggest that the primary purpose of the hunting is not pest control. Stewards may be deployed to assist with car parking and to collect the daily ‘cap’ fee from those attending.

## Exemptions: Use of dogs below ground to protect birds for shooting

Also known as the Gamekeepers exemption. Hunting must *not* involve the use of any dog below ground *except* for the purpose of preventing or reducing serious damage to game birds or wild birds that are being kept or preserved for shooting.

The following conditions apply:

- That it's carried out to prevent or reduce *serious* damage to game birds or wild birds kept or preserved for the purpose of being shot.
- The terrier man must have with him written evidence that the land belongs to him or that he has written permission from the landowner/occupier. He is required to produce this written evidence if asked for by a police officer
- No more than one dog is used below ground at any one time
- The wild mammal is flushed from below ground as soon as possible after being found
- The wild mammal is shot dead by a competent person as soon as possible after being flushed
- The dog is brought under sufficiently close control to ensure that it does not prevent or obstruct the mammal being shot as soon as possible
- Reasonable steps are taken to prevent injury to the dog
- The manner in which the dog is used must comply with a Code of Practice issued or approved by the Secretary of State (see BASC code of Practice for the use of a dog below ground in England and Wales section 6):
  - The role of the terrier is to locate and bolt the wild mammal and the intention must not be for the terrier to fight with the wild mammal.
  - Only a “soft” terrier (one that habitually stands back and barks at the wild mammal) can be used to flush out the wild mammal. A ‘hard’ terrier which will attack the quarry animal must not be used.
  - The terrier must be wearing a locator collar

## POINTS TO CONSIDER

**Pursuit:** Was the wild mammal pursued by the dog or any other dog(s) after it was flushed from below ground?

**Dogs:** Was there more than one dog being used below ground at any one time? Was the dog under close control? Was there evidence that the dog had fought the wild mammal, for example does the dog have fresh injuries or was the dog seen ‘ragging’ the dead fox? This would indicate that a ‘hard’ terrier was being used in the flushing out.

**Permission:** Did the hunter have written permission to hunt (not just to be on the land) from the landowner/ occupier?

**Guns:** Were any/sufficient firearms present and in readiness to shoot the wild mammal once it had been flushed out from below ground?

**Purpose of the event:** The use of a dog below ground is not permitted for general pest control purposes. In addition this exemption should only be used to prevent or reduce serious damage to game birds or wild birds kept or preserved for shooting.

**Dig out:** Digging out is only permitted to retrieve a trapped terrier. Digging out to get to the fox is illegal when carried out in conjunction with the use of a dog. Foxes can only be flushed out from below ground.

**Badger sett:** Was a badger sett displaying signs of current use interfered with in any way during the course of the hunting activity, this would include sett entrances being blocked or a sett being dug out to locate a fox? *See section 3, Protection of Badgers Act 1992.*

**Other hunting activity:** Was the use of a dog below ground taking place in conjunction with an alleged trail hunt or any other exempt hunting activity?

**NB: See Fox Hunting and Hunt Structure in Appendix below for details on the traditional role of the terrier man.**



## Exemptions: Rats

The hunting of rats is exempt provided that:

- It takes place on land that belongs to the hunter; or that the hunter has permission from the landowner/occupier to do so.

**NB: There is no limitation on the number of dogs that can be used.**

### POINTS TO CONSIDER

**Permission:** Was the hunter the landowner or did he have permission to hunt from the landowner/occupier?

**Type of hunting activity:** Was there evidence that the hunted wild mammal was a rat? Was there evidence that any other (non-exempt) wild mammal was hunted and if so was the hunting encouraged or the dogs called off?

## Exemptions: Rabbits

The hunting of rabbits is exempt provided that:

- It takes place on land that belongs to the hunter or on which the hunter has permission to hunt from the landowner/occupier

**NB: There is no limitation on the number of dogs that can be used.**

### POINTS TO CONSIDER

**Permission:** Was the hunter the landowner or did the hunter have permission to hunt from the landowner/occupier?

**Type of hunting activity:** Was there evidence that the hunted wild mammal was a rabbit? Was there evidence that any other (non-exempt) wild mammal was hunted? If any other (non-exempt) wild mammal was pursued was there evidence that the dogs were called off? Were the dogs encouraged to hunt the wild mammal, for example by the use of horn and/or voice calls?

Many hunts that have traditionally hunted hares, which include beagle, basset hound and some harrier packs, now claim to be rabbit hunting as well as trail hunting so they can continue hunting within the law. Rabbits are currently killed using a variety of methods which includes ferreting, gassing and shooting and while under the Hunting Act it is permissible to hunt rabbits with more than two dogs they are generally hunted with one or two small lurchers and not hunted with packs of dogs.

The claim of rabbit hunting using a pack of dogs in the traditional manner is not credible due to the differences between rabbits and hares. In his paper *Hunting with Dogs: Hearings on the Evidence (2-11 September 2002)* ([http://archive.defra.gov.uk/rural/documents/countryside/hunting/hh\\_2c\\_sharris.pdf](http://archive.defra.gov.uk/rural/documents/countryside/hunting/hh_2c_sharris.pdf))

Professor Stephen Harris, Professor of Environmental Sciences at Bristol University states on the subject of rabbiting:

*“This process is very different from coursing hares. First, the quarry is very much smaller (mean size circa 1kg versus 3kg for a brown hare) and this means that it is much easier for dogs to kill or rabbit quickly. Secondary, the distance over which the hunt occurs is much shorter; rabbits and hares are spatially separated, with hares remaining in the middle of open spaces, rabbits the edges of fields. Hares try to escape by outrunning their prey; they have no natural predators that chase them over long distances. Rabbits, in comparison, do not normally move more than 10 metres from cover, and their means of escape is a short dash to their warren. So the pursuit is extremely short, the aim is to catch the animal quickly, usually by crushing the head, rib cage or body. Whilst the aim of rabbiting with dogs is primarily pest control (as opposed to hare hunting, which is solely sport), it probably makes an extremely small (if any) contribution to population control. The vast majority of rabbits are killed by ferreting, gassing and shooting, and it is unlikely that rabbiting is less humane than any of these forms of control”.*

As explained above rabbits do not attempt to outrun potential predators but seek cover when they feel threatened and make a short run to their warrens. Hares, on the other hand, do not have warrens and spend their entire lives above ground. Their means of escaping predators is to attempt to outrun them. Hare hunts use hounds that are bred for speed and stamina so that they are able to keep pace with the hare and provide a long run and good sport. The hare if unable to escape, eventually tires and is overtaken by the hounds and killed.



## Exemptions: Retrieval of hares

The hunting of a hare that has been shot is exempt provided that:

- It takes place on land that belongs to the hunter or on which the hunter has permission to hunt from the landowner/occupier

**NB: There is no limitation on the number of dogs that can be used.**

### POINTS TO CONSIDER

**Pursuit:** If an apparently uninjured hare was pursued was there evidence that the dogs were called off? Were they encouraged to hunt the uninjured hare? Were any other (non-exempt) wild mammals pursued by dogs and called off? Were they encouraged to hunt the wild mammal, for example by the use of horn and/or voice calls?

**Permission:** Was the hunter the landowner or did he have permission to hunt from the landowner/occupier?

**Type of hunting activity:** Was there evidence that the hunted hare had been shot or did the hare appear to have been uninjured? Was there evidence that any other (non-exempt) wild mammal was being hunted?

## Exemptions: Falconry

The flushing of a wild mammal from cover is exempt hunting provided:

- It is undertaken for the purpose of enabling a bird of prey to hunt the wild mammal, and
- It takes place on land that belongs to the hunter or on which the hunter has permission to hunt from the landowner/occupier

**NB: There is no limitation on the number of dogs that can be used.**

### POINTS TO CONSIDER:

**Pursuit:** Did the pursuit of the wild mammal by the dogs continue once it had been flushed from cover? If so, were the dogs called off? Were the dogs encouraged to pursue the wild mammal? Was the wild mammal prevented from being flushed out of cover? During cub hunting foxes are prevented from leaving covert so that dogs can be trained to hunt them.

**Permission:** Does the hunter have permission to hunt from the landowner/occupier?

**Use of the bird of prey:** Was the type of bird used capable of hunting the target animal? Was the bird positioned where it could hunt the wild mammal once it had been flushed? Was the bird in a state of readiness to fly once the wild mammal had been flushed, for example was the bird still in its box or on the handlers arm still wearing its hood? Was the bird released when the wild mammal had been flushed from cover?

**NB: It is important to ensure that the bird is kept in accordance with the Animal Welfare Act 2006. There may be welfare issues associated with using a bird of prey and observers should look out offences under other animal welfare legislation.**

- How is the bird being transported?
- What condition does the bird appear to be in?
- Is the species of bird (such as Golden Eagle) listed on Schedule 4 of the Wildlife & Countryside Act 1981, requiring it to be ringed and registered with the government? It is an offence not to comply with this requirement.

## Exemptions: Recapture of a wild mammal

The following conditions apply:

- That the hunting is carried out for the purpose of recapturing a wild mammal that has accidentally escaped/been released from captivity/confinement
- It takes place on land that belongs to the hunter or on which the hunter has permission to hunt from the landowner/ occupier, or a police officer
- There must be a competent marksman present to shoot the wild mammal or steps taken to recapture the mammal as soon as it is found.
- That each dog used is kept under sufficiently close control so that the shooting or recapture is not prevented
- That there is no evidence that the wild mammal has been released or allowed to escape for the purpose of the hunt

**NB: There is no limitation on the number of dogs that may be used.**

### POINTS TO CONSIDER:

**Pursuit:** Was the animal pursued by the dogs after it was found? Was there a long pursuit?

**Dogs:** Were the dogs under close control?

**Permission:** Is the hunter the landowner or does the he have permission to hunt from the landowner/occupier?

**Guns:** Were there any or sufficient guns present and positioned to ensure that the wild mammal could be shot as soon as possible after being found? Were suitable firearms used?

**Purpose of the event:** Was there any evidence that the wild mammal had escaped? Was there evidence that the wild mammal was captured? Was there evidence that the primary purpose of the hunting was for sport and recreation? Was the hunt advertised? If so, how far in advance was the hunt advertised? If the hunt was advertised some time in advance it would unlikely that the purpose of the hunting was to recapture the wild mammal?

**Terrier men:** Were there terrier men present? Was any terrier work carried out? Terrier work is only permitted to prevent or reduce serious damage to birds kept for shooting and has no role in the recapturing of a wild mammal. The presence of terrier would suggest that traditional hunting was taking place.

## Exemptions: Rescue of a wild mammal

The following conditions apply:

- The hunting is carried out for the purposes rescuing a wild mammal and relieving it from suffering
- The hunter reasonably believes that the wild mammal is or may be injured and the hunting is carried out for the purpose of relieving the wild mammal's suffering.
- The hunting does not involve the use of more than two dogs.
- It takes place on land that belongs to the hunter or on which the hunter has permission to hunt from the landowner/occupier or police officer.
- The wild mammal was not harmed for the purpose of enabling it to be hunted
- The hunting does not involve the use of a dog below ground.
- Reasonable steps are taken for the purpose of ensuring that as soon as possible after the wild mammal is found appropriate action (if any) is taken to relieve its suffering
- Each dog used is kept under sufficiently close control to ensure that it does not prevent or obstruct this.

### POINTS TO CONSIDER

**Pursuit:** Was the animal pursued after it was found? Was there a long pursuit?

**Dogs:** Were more than two dogs used? Was/were the dog/s under close control?

**Permission:** Does the hunter have permission to hunt from the landowner/occupier?

**Guns:** Were there sufficient/any guns present and positioned to ensure that the wild mammal could be shot as soon as possible after being found? Was a suitable firearm used?

**Purpose of the event:** Was there evidence that the wild mammal was injured? Was there evidence that the primary purpose of the hunting was for sport and recreation? Was the hunt advertised and if so how far in advance? If the hunt was advertised some time in advance of the hunting it is unlikely that the purpose was to rescue a wild mammal and relieve its suffering.

**Terrier men:** Were there terrier men present? Was any terrier work witnessed? The use of a dog below ground is not permitted. The presence of terrier men would suggest that traditional hunting was taking place.

## Exemptions: Research and observation

The following conditions apply:

- The hunting is undertaken for the purpose of or in connection with the observation or study of the wild mammal.
- The hunting does not involve the use of more than two dogs.
- The hunting does not involve the use of a dog below ground.
- It takes place on land that: belongs to the hunter; or on land which the hunter has been given permission from the landowner/ occupier
- Each dog used is kept under sufficiently close control to ensure it does not injure the wild mammal.

## HUNTING DEFENCE

It is a defence for a person charged with an offence under section 1 in respect of hunting to show that he reasonably believed that the hunting was exempt.

*Hunting Act 2004, Chapter 37, Part 1, Offences, Section 4*

Under section 4 it is a defence for a person charged with an offence under Section 1 (only) to show that he reasonably believed that the hunting was exempt. This defence places a legal burden on the defendant to prove, on the balance of probabilities, that he reasonably believed his acts were exempt.

Any defendant who relies on the Section 4 “reasonable belief” defence and seeks to establish that he falls within one of the exemptions under schedule 1 should call evidence to substantiate that claim.

The burden is then on the prosecution to prove that the hunting was not exempt. It may not strictly be a requirement for the defence to proffer a defence statement, but a defendant who relies on an exemption which he did not mention in interview and mentions for the first time at the trial, may find himself disadvantaged for different reasons:

- An adverse inference (S.34 Criminal Justice & Public Order Act 1994)
- Adjournment/punitive costs order
- Final evidence heard being rebuttal by the prosecution

### POINTS TO CONSIDER

**Permission:** Does the hunter have permission to hunt from the landowner/occupier?

**Dogs:** Were more than two dogs used? Was/were the dog/s under close control?

**Purpose of the event:** Was there evidence of a research project being carried out at the time? What is the purpose of the study/research and does the person conducting the research have a Home Office licence? Was there evidence that the primary purpose of the event for sport and recreation?

**Terrier men:** Were there terrier men present? Was any terrier work witnessed? The use of a dog below below ground is not permitted under this exemption. The presence of terrier men would suggest that traditional hunting was taking place.

Following the High Court judgment, adverse inferences have been drawn by the magistrates' courts in hunting cases, even when the defendants have shown that they were following legal advice; in the appeal case of Hopkins & Allen v Regina (2011) at Leicester Crown Court, the judge said, *“The appellants were interviewed under caution by the police. We are told that on legal advice they each answered “No Comment”. We were told no more as to the reasons. Granted the terms of the caution, the fact that the tale each had to tell was a clear one and granted that each was able to give an account of what was going on in each of the DVDs, we were surprised, firstly that they were given such advice and, secondly, that they took it.”*

The main or primary purpose of the hunting is important in determining if the hunting is illegal or not. If sport and recreation is the *primary* purpose of the hunting then the hunting is illegal even if the various conditions of the exempt hunting are met; the appeal case of case Down & Pillivant v Regina (2009) makes this very clear. The presence of mounted field and supporters, the payment of a ‘cap’ or fee at the meet and the fact that hunt meets are advertised in advance, sometimes by several months, would provide evidence suggesting that the main purpose of the hunting is for recreational and sporting purposes rather than for one of the designated purposes laid out in the conditions.

## HUNTING ASSISTANCE

### It is an offence under section 3 of the Act for a person to knowingly permit:

Land which belongs to him to be entered or used in the course of the commission of an offence under S.1

A dog which belongs to him to be used in the course of the commission of an offence under S.1

### For the purposes of the Act land belongs to a person if he:

- Owns an interest in it
- Manages or controls it
- Occupies it

### For the purposes of the Act a dog belongs to a person if he:

- Owns it
- Is in charge of it
- Has control of it



## HARE COURSING

A hare coursing event is a competition in which dogs, greyhounds and other dogs that hunt by sight rather than scent, are assessed as to skill in hunting hares.

ALL hare coursing is illegal under the Hunting Act regardless of whether the coursing is undertaken as part of a large organised event with the landowners permission or undertaken by groups of 'lads with dogs' and who are trespassing.

### A person commits an offence if he does any of the following:

- Participates in a hare coursing event;
- Attends a hare coursing event;
- Knowingly facilitates a hare coursing event;
- Permits land which belongs to him to be used for the purposes of a hare coursing event;
- Enters a dog or permits a dog to be entered in a coursing event; or
- Controls or handles a dog in the course of or for the purposes of such an event.

## TRAIL HUNTING

As explained above, since the Hunting Act 2004 came into effect in 2005, a number of legal forms of hunting live quarry remain: these are listed in Schedule 1 of the Hunting Act 2004 (Exempt Hunting). In addition, it remains legal to hunt an artificial scent laid in advance by people, rather than a scent left naturally by a live animal such as a fox or hare; the form of scent hunting said to have been adopted by hunts since the Hunting Act 2004 is called 'trail hunting'. Trail hunting is a recently-invented activity which involves someone laying an animal scent trail for dogs to follow. In principle, trail hunting is superficially similar to drag hunting, a legal activity which long pre-dated the Hunting Act 2004. Trail hunting and drag hunting are very different activities.

The Masters of Draghounds and Bloodhounds Association makes two important points about the use of hounds to hunt an artificial scent (<http://www.huntinginquiry.gov.uk/evidence/mdba.htm>): (i) "dedication of the highest level is required to prevent hounds hunting a wild mammal"; and (ii) "hunting an artificial scent provides an ideal conduit by which an individual could hunt covertly". When the Hunting Act 2004 came into force, the Masters of Draghounds and Bloodhounds Association (MDBA) were particularly concerned that covert and illegal hunting, under the guise of

hunting an artificial scent trail, would have a detrimental effect on the sport of drag hunting. To prevent their sport being brought into disrepute, the MDBA insisted that the term drag hunting remained their exclusive property; that is why the organisations that previously hunted live quarry invented the term 'trail hunting'.

The hunting organisations make it clear that trail hunting is not a replacement for hunting live quarry but simply provides what they hope will be a temporary activity for hounds and followers until the 'ban' brought about by the passing of the Hunting Act 2004 can be reversed. The Masters of Foxhounds Association (MFHA), for example, say that the aim of trail hunting is to simulate traditional hunting as practiced before the ban; they say a trail is laid using a fox-based scent – usually said to be founded on fox urine, which is important because the aim is to keep the dogs focused on the scent of their historical quarry during the time of this ban; the trail is laid across the country taking a route that might be taken by a fox – i.e. through hedgerows and woods and along ditches, in essence simulating the natural movement of a fox across the countryside. The MFHA adds, "During the day hounds will hunt the trails that have been laid but will also come across both fresh and stale scents left by many different mammals." (Easby, T. (2012) <http://www.mfha.org.uk/hunting>).

If the intention is to trail hunt, there are a number of measures that *could* easily be taken to avoid live quarry being hunted accidentally. First, foxes spend most of the day lying up in dense cover, so it would be easy to lay scent trails that avoid the areas most likely to be used by foxes for shelter and rest. Secondly, when hunting live quarry the trail is unpredictable and the animal may run anywhere. With trail hunting, the exact route is known by the trail-layer, so it *would* be very easy to position hunt servants and/or hunt supporters at key positions so that they can: (i) watch the hunt; and (ii) help stop hounds if they start chasing live quarry. However, the MFHA says the less the Huntsman or the followers know of the route of the trail, the more the hunting will mimic its realistic and challenging form. Clearly this dramatically increases the risk of live quarry being hunted, accidentally or otherwise. It may also provide evidence of illegal hunting: if hunt followers do not know the route of the trail but are seen or heard signalling to the Huntsman in the traditional way, by waving and pointing or hollering (distinctive loud, high-pitched shouting), such signalling must have taken place because they saw a live animal and are alerting the Huntsman to the direction in which it has run.

It is also important to consider the properties of scent. The persistence of a scent trail (natural or artificial) is heavily influenced by a wide range of variables, in particular weather conditions and the substrate on which the scent is

laid. On warm days the scent will evaporate quickly, which is why fox-cub hunting in the late summer/autumn (prior to the start of the traditional fox hunting season) takes place very early in the morning, before the sun warms the land, or in the evening, when the temperature has dropped. The key references in terms of scent and hunting are Budgett, H.M. (1933) *Hunting by Scent*, Eyre & Spottiswoode, London, and Pollard, H.B.C. (1937) *The Mystery of Scent*, Eyre & Spottiswoode, London. Pollard, H.B.C. said, "...the duration of the evaporation of scent, from its extrusion as a concentrate till it becomes too faint to be recognised by hounds – seldom exceeds half an hour." Pollard and Budgett both make it clear that scent trails are very variable, that they can be lost quickly under a variety of conditions, that a pack of hounds needs to be following a fresh scent, and that the longer the hunt has been in progress, the weaker the scent becomes. Both points are also made by the late (10th) Duke of Beaufort and the Masters of Foxhounds Association (Beaufort, Duke of, 1980, Fox-hunting, David & Charles, Newton Abbot; <http://www.huntinginquiry.gov.uk/evidence/mfha.htm>).

For drag or trail hunting, an artificial scent trail would be laid by dragging a rag soaked in the odoriferous material behind a horse, runner or quad bike. Hunts may try to improve the persistence of the scent trail by mixing an odoriferous substance with an oil. For instance, "a runner is used to lay a scent about 20 minutes in advance of the hunt .... Nowadays a chemical crystal, mixed with water and oil, is used" (Bloomfield, R., 'All about drag hunting', *Horse & Hound*, 7 January 2005). In their evidence to the Burns Inquiry, the Masters of Draghounds and Bloodhounds Association stated that their artificial scent trails are generally oil-based and are laid "perhaps half an hour" ahead of the hunt (<http://www.huntinginquiry.gov.uk/evidence/mdba.htm>).

Whilst these artificial scents may last longer than the natural scents produced by foxes, they still behave in the same way as natural scents, and weather and other conditions may reduce the time they persist. So, to be able to follow the scent and provide a reasonably fast hunt, hounds need to be laid on to the scent within half an hour of it being laid. With a fresh scent the hounds run much faster, with their heads held high, and vocalise excitedly. With an old scent, the hounds would work much more slowly and methodically, with their noses held much closer to the ground, and make much less noise. Claims of trails having been laid hours before hunting activity is witnessed would therefore seem to be completely illogical and should be treated with suspicion.

Traditional fox hunting, before it became illegal, involved the temporary stopping up of badger setts and fox earths by terrier men before the hunt started; this was to prevent hunted foxes taking refuge below ground. Obstructing access to, or any entrance of a badger sett is illegal under s.3(c) of the Protection of Badgers Act 1992, but exemptions under s.8(4)-(9) used to allow registered hunts to 'stop up' setts for the purpose of fox hunting. Those exemptions were repealed by the Hunting Act, so sett-stopping carried out today is illegal and may provide evidence to contradict claims of trail hunting. In the appeal case of Hopkins & Allen v Regina (2011) HHJ Pert said, "An obvious reason for stopping up a badger sett is to prevent a live fox from using it as a refuge from hounds." The judge went on to say, "Stopping up of badger setts is capable of being evidence of a decision having been taken in advance to hunt live foxes." In that case there was no evidence to show who had stopped up the sett but the evidence was deemed admissible against the defendants.

**When trail hunting is claimed, the following should give rise to suspicion of illegal hunting:**

- Absence of trail-laying / trail-laying equipment & scent
- Trail laid over 30 mins before hunting
- Searching in those areas most likely to be used by foxes for shelter and rest
- Signals to the huntsman, such as raising an arm in the air or 'hollering'
- Repeated 'accidental kills'
- Presence of terrier men
- Badger setts and fox earths stopped up
- Dogs not being called off live quarry
- Trails allegedly laid across busy roads or through crops or dense shrubbery/hedges.

## Drag Hunting

Created in the early 1800s

Objective is to practice a sport using hounds to search for a scent without the pursuit or killing of wild animals

Long-lasting sport

Specific rules created by the MDBA

Non-animal based scents

Hounds taken to search for the scent in areas where a live quarry presence is unlikely

Does not use areas, meets and fields where pre-Hunting Act foxhunting took place

Huntsman and whipper-in always know where the scent was laid

Focus is on the riders following the hounds, who are encouraged to find the scent quickly

Scent laid only 20 - 30 minutes earlier than casting the hounds to find it

No terriermen present and no need for terriermen

Hounds always kept under close control so no 'accidents' with chasing of live animals

## Trail Hunting

Claimed since 2005

Objective is to make an activity look as similar as possible to hunting before the Hunting Act

Considered a temporary activity only undertaken in the hope that the Hunting Act is repealed

No written rules

Animal-based scents

Hounds taken to search for the scent in areas where live quarry presence is likely

Uses the same areas, meets and fields where pre-Hunting Act foxhunting took place

Huntsman and whipper-in deliberately do not know where the scent was laid

Focus is on the hounds searching for a scent rather than encouraging them to find it at the start so riders can join the pursuit

Scent laid only 20 - 30 minutes earlier than casting the hounds to find it

Terriermen follow the hunt, carrying terriers and digging equipment, and still pursue foxes underground

Hounds left unsupervised for longer periods, which increases the likelihood of 'accidents' with chasing and/or killing of live animals

When hunt staff claim to have been trail hunting in answer to an allegation of illegal hunting, there should be a thorough investigation to establish whether or not it is, in fact, a false account which is intended to conceal illegal hunting; one appeal judge called this 'cynical subterfuge'. When a wild mammal is chased and/or killed during a trail hunt, it is usually claimed to have been an accident. This defence is often successful because the Hunting Act requires proof that the hunting of a wild mammal was intentional. If a defendant is able to raise the possibility that they did not intend to chase or kill a wild mammal and they did not stop the hounds because they did not know whether the hounds were chasing the trail laid or a live animal, prosecutors may decide not to take the case further. Proving intent may be thought difficult but there have been cases where investigators managed to obtain enough evidence to prove that the account was false, and to secure convictions in court.



## ENFORCEMENT

### Penalty

The penalty for committing an offence under this Act is a fine not exceeding level 5 on the standard scale. This is a summary offence and is therefore subject to a six month statutory period by when a decision must be made on whether to charge or summon the defendant.

### Search & seizure

**If an officer reasonably suspects an offence is being or has been committed he may:**

- Stop & search person, vehicle, animal or other thing;
- Seize and detain any vehicle, animal or other thing to be used as evidence or to be forfeited by a court;
- Enter any land, vehicle or premises other than a dwelling – without warrant – to exercise powers of stop, search & seizure

### Forfeiture

**Upon conviction, the court may order forfeiture of:**

- Any vehicle used in the commission of the offence – for example a quad bike, 4x4 or trailer (does not have to be a motor vehicle);

- Any dog that was used in the commission of an offence or in the possession of the defendant when arrested;
- Any hunting article that was used in the commission of the offence or in the possession of the defendant when arrested

### Offence by Body Corporate

*S.10(1) and (2) – Where an offence is committed by a body corporate with the consent or connivance of an officer of the body the officer, as well as the body, shall be guilty of an offence*

*S.10(3) – An officer of a body corporate includes: a director, manager or secretary; or a person purporting to act as such, and, if the affairs of the body are managed by its members, a member.*

In order for a prosecution to succeed, it would be necessary to show that an officer of the company consented or connived in the commission of the offence. The knowledge would have to be proved in relation to a company, or a person acting on behalf of a company, in the same way as it would in relation to an individual.

Connivance requires an active knowledge and some other act to show that there was implicit consent to use the land or someone's dogs. Connivance is about an offence for which knowledge plus something else is required.



## APPENDIX

### Hunt roles and structure

There are a number of clearly defined roles and structure in a traditional pack-based hunt and most hunts, of whatever discipline, have a similar structure. Since the Hunting Act 2004 hunts have continued to maintain their infrastructure while claiming to have switched to trail or exempt hunting.

### Masters

A hunt has one or more masters. These people are jointly responsible for the overall management and conduct of the hunt in particular with liaising with local farmers and landowners. The hunt servants act on their instructions. They are also responsible for paying any outstanding debts that the hunt has incurred. The huntsman will meet with one or more of the masters prior to a day's hunting to agree how the day should be conducted. However, not all the masters will necessarily attend every meet and one may act as the field master for the day. The master(s) may belong to one of the Masters' Associations as mentioned above but this is not statutory. If they are members then they are bound by the Association's rules and can be disciplined.

During the day's hunting the masters wear the hunt uniform, a coloured coat, normally red but some hunts wear other colours such as green, navy blue or yellow. The huntsman and whipper-in (see below) also wear a coloured coat. During the cub hunting or autumn hunting season ratcatcher (tweed) jackets tend to be worn. Since the passing of the Hunting Act the masters and hunt servants of some hunts don't wear the traditional coloured coats as this singles them out from the rest of the hunt. The Master(s) are directly answerable to the hunt.

### Hunt Committee

The hunt committee is elected by the subscribers (paid up members of the hunt). The Committee, in turn, appoints the Master(s). The Committee is responsible for the overall policy of the hunt and for raising funds to run the hunt which includes wages for hunt servants, food for the hounds, maintenance of the hunt premises and equipment, repairs to the kennels, damage to non hunt property etc. Funds come from a number of sources including subs, cap, Hunt Supporters Club, point to point races, auctions etc.

### Huntsman

The huntsman is a hunt servant who hunts the hounds and is responsible for controlling and directing the hounds during the days hunting. He decides which coverts will be drawn, although the general plans for the day's hunting would have been discussed in advance with the Master(s). In traditional hunting the huntsman would also decide which quarry would be hunted if more than one was found, and which quarry would not be pursued e.g. if the quarry was close to a busy road such as a motorway or land where access had not been granted to the hunt.

Significantly the huntsman is the only one to use the hunting horn; this is used to encourage the hounds or otherwise control them and is also be used to communicate with other hunt staff and the field. Hounds are also controlled by a variety of voice calls and the use of whips, both by the huntsman and the whippers-in. The huntsman is also responsible for the welfare of the hounds and cleanliness of the kennels. The huntsman is usually a full-time, paid employee, but, sometimes the Master (or one of the Masters) will hunt the hounds in which case someone else, known as the kennel huntsman, will be responsible for the kennels – he/she would often be the whipper-in.

### Whippers-in (or 'Whips')

The huntsman is assisted by one or two whippers-in, who are also hunt servants and carry a whip. Their job is to assist the huntsman during the days hunting, particularly in keeping the pack together and resolving any problems that occur during the day. His primary role is to keep the pack together and round up missing hounds. Even when hounds are hunting the whipper-in could be some distance away collecting up stray hounds. When the pack needs to be stopped or called off, the whipper-in will be with the huntsman to help stop the pack. In traditional hunting the whipper-in would also be required to take up a position on point (see below) so that he/she could alert the huntsman if the quarry was spotted.

### Kennel Huntsman

The kennel huntsman is responsible for the hounds in kennels, for feeding and exercising them etc. A professional huntsman is his own kennel huntsman but if the Master hunts the hounds himself then a kennel huntsman is employed who is often also the whipper-in.



## Kennel Man

The kennel man works in the kennels under the Kennel Huntsman. He looks after the hounds in kennels, assuring that all tasks are completed when pack and staff return from hunting.

## Hunt Secretary

The other key officer for a hunt is the honorary secretary. He/she is responsible for calling and minuting Committee meetings, liaising with the Masters, collecting the cap on the hunting day, collecting subscriptions, dealing with enquiries from prospective new members and subscribers and dealing with all the financial issues relating to the hunt, including the payment of the wages. Thus he/she is the key person in the management and day-to-day running of the hunt.

## Field Master

The Field Master is in charge of the mounted hunt followers (the field). He/she will guide and manage the field during the days hunting. The Field Master's prime function is to stop the field over-running the hounds, hindering the hounds while they work, prevent the field going to areas where access has been refused and minimising damage to crops and fences. The Field Master will always be introduced at the meet so that the field knows who is in charge of them for the day. The role of Field Master may be undertaken by different people on different days and will normally be an officer of the hunt. Mounted followers should remain in touch with him or her and ensure any instructions are instantly obeyed.

## The Field

The collective term for those that followed the hunt on horseback.

## Hunt Followers

The hunt followers who are not following on horseback. This would include those who follow the hunt on foot, by car, bicycle or quad bike.

## Terrier Man

In traditional fox hunting a hunt would employ one or more terrier men who played an important role in the days hunting. Their role was to stop up fox earths and badger setts before a hunt (to keep foxes above ground so they could be found and hunted by the hounds) and to deal with hunted foxes that did manage to find refuge underground during the day's hunting. These foxes would be located using terriers and then dug out and shot or bolted so that they could be hunted by hounds again. Terrier men would follow the hunt, either on a quad bike or in a vehicle or occasionally on foot; they would generally carry one or more terriers, often in a box attached to a quad bike, together with implements such as spades, nets, terrier locator devices and firearms. Hunts sometimes now refer to terrier men as 'countrymen' and say they are employed to open and close gates, repair fences, lay trails etc. Terrier men were also employed during mink hunting and were used to locate mink that sought refuge in holes in the river bank which were then bolted to be hunted again or killed.



## TRADITIONAL LIVE QUARRY HUNTING

Traditional live quarry hunting took place either on foot or on horseback, depending on the terrain and type of hunting, using a pack of hounds that hunted by scent with hunt supporters following on foot or in vehicles. Most hunts in the UK were and still are regulated by various governing bodies which include the following:

- Association of Masters of Harriers and Beagles (AMHB);
- Central Committee of Fell Packs (CCFP);
- Federation of Welsh Packs (FWP);
- Masters of Basset Hounds Association (MBHA);
- Masters of Deerhounds Association (MDHA);
- Masters of Foxhounds Association (MFHA);
- Masters of Mink Hounds Association (MMHA);
- National Coursing Club (NCC);
- Whippet, Saluki and Deerhound Coursing Association; and
- National Working Terrier Federation (NWTF).

In England, Scotland and Wales there are 192 registered traditional fox hunting packs; 93 traditional hare hunting packs; 3 packs of staghounds and 21 mink hound packs.

However, there are a number of unregistered hunts and unregistered gun packs in the UK particularly Wales, Cornwall, Devon and northern parts of the country.

Traditional live quarry hunting was undertaken with a pack of specially-bred scent hounds that were trained to pursue the quarry based on its scent. The UK consists of vastly different types of country and therefore hounds have been bred over time to suit different terrain - a different sort of hound was required in the steep fells of the lake district (inaccessible to horses) than in the hard riding fields of Leicestershire. However, hounds required some 'generic' qualities no matter what sort of country they are hunting which included good scenting ability, stamina and speed.

Dogs that hunted by sight such as a greyhounds or lurchers have been used to pursue foxes, though this practice was not common in organised hunting, and these dogs were more often used for coursing animals such as hares. Hunts also used terriers to flush or kill foxes that were hiding underground, as they are small enough to pursue the fox through narrow earth passages.



## FOX HUNTING

The main fox hunting season started with the Opening Meet which normally took place during the last week in October or during the first week in November, often on a Saturday and ran until 1st May although most hunts finished in March and early April. This was preceded by cub hunting (often referred to as 'autumn' hunting) during which time young hounds were trained to hunt foxes. Hunts generally met at least twice a week.

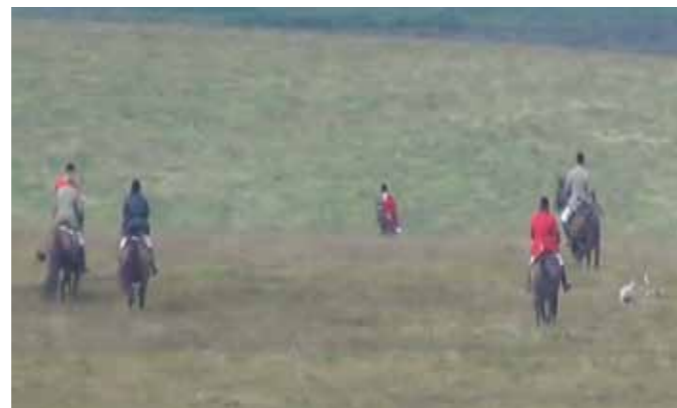
Before the hunt was due to take place the fox earths and badgers setts in area where the hunting was due to take place would have been blocked or 'stopped' so that the foxes were kept above ground and so could be found and chased. This also prevented foxes from seeking refuge underground once the hunt was underway. Foxes are active at night and often the stopping up happened the night before the hunt so that foxes that were out foraging at night could not go below ground and would be more easily found. Alternatively, the terriermen would block up the holes in the early morning before the hunt began, using their terriers to flush out any foxes within these holes before they were blocked. The blocking of earths and setts was carried out by 'earth stoppers' who would often include the terrier man for the hunt. Entrances to the earths and setts would be blocked by soil, sticks, posts, large stones and/or fertilizer bags. The blocking of sett entrances would normally be an offence under Section 3(c) the Protection of Badgers Act 1992 but was permitted by exemption under Section 8 of that Act, which allowed badger setts to be blocked with certain materials. The Hunting Act 2004 removes that exemption and the 'stopping' of badger setts is therefore now illegal, though there is substantial evidence that the practice of the blocking of badger setts or fox earths is indicative of an intention to hunt foxes.

The hunt would normally meet at 10.45 am at a pre-arranged location such as a pub, a village green or a farm, known as 'the meet'. Attendees at the meet would include the hunt officials, the masters, riders ('the field') and the hunt supporters. The hunt would move off to the first covert to be searched or 'drawn' for foxes with the huntsman, whipper-in and hounds in front. The masters and field would follow on behind while followers on foot or in cars would find a suitable location to watch the hunt. The pack of hounds are taken into a covert, which is defined in the Jorrocks Glossary of Hunting Terms (<http://www.jorrocks.com/>) as: 'any stretch of growth where a fox resides; usually a coppice, a stretch of gorse, or a wood.' This would also include reed beds, hedgerows and fields of stubble, in short anywhere where foxes would lay up during the day.

The hounds were put into covert and encouraged by the huntsman by use of horn and voice calls to search for a scent. The sound of the huntsman's horn and voice would also serve to rouse the fox and get him up and running. Foxes generally sleep during the day either in earths or in thick cover, such as gorse, undergrowth, or bramble cover, concealing themselves from sight. Foxes will only move around during the day if there is nothing in their vicinity that is disturbing or frightening. In threatening situations, their preferred option is always to remain hidden and will resist as long as possible from moving from their concealed position. Foxes have an acute sense of hearing and will hear the hunt approaching from a long way away. If they are not already concealed they will quickly hide themselves away and remain hidden. Foxes have a 'safety' zone around themselves which, if invaded, compels them to run away. This explains the foxhunting practice of putting their hounds into coverts, where they persistently investigate all areas as they seek foxes. This puts any fox within the covert in a position where he feels he must bolt from this threatening situation. If this happens, the instinct and wish of the fox would be to re-conceal himself as soon as possible in a nearby hole, e.g. a badger sett. If prevented from doing this, i.e. as the holes have been stopped, the fox will be forced to keep running away, often trying to keep to ditches and hedges in order to stay concealed as much as possible.

Occasionally the hounds may have come across a fox and killed it before it had a chance to run; in this instance the hounds were said to 'chop' the fox.

While the hounds were searching for a scent the whipper-in and other followers would position themselves on point around the covert in order to look out for any fleeing foxes. When the fox has broken cover and bolted, hunt followers may alert the huntsman and indicate the direction the fox has taken, by shouting, pointing or holding up the riding hat with an extended arm. Various shouts can be employed to indicate a sighting of the fox and include:



'Tally ho' (I have seen the fox ); 'Tally ho back' (fox has run out the covert and back in again); 'Gone over' (fox has crossed the path, ride or road); or a high pitched shout, known as a view holloa' or holler meaning 'fox has been seen here'. Followers, both mounted and those watching on foot or in vehicles, would continue to provide information to the huntsman about where the hunted fox has run.

Foxhounds hunt by scent and follow the scent that has been left on the ground by the running fox from the scent glands between the pads of his feet. The hounds would not begin to chase until they had found and settled on the scent that the fox has laid upon the ground as he broke cover and began to run. This can take several minutes. Once the pack has picked up the scent of a fox they would start yelping or barking excitedly, known as 'speaking' or 'in cry'.

The fox would be initially able to run faster than the hounds and at first would outrun them so that the hounds were usually quite some distance behind the fox. It would be normal for hounds to be five, ten or even more minutes behind the fox. The hounds would have better stamina, and as the fox tired and slowed, the hounds would begin to close the gap between them and the fox.

As foxhounds do not hunt by sight, the distance between them and the fox is unimportant - it is the scent with which they need to keep in touch. Sight is employed by the hounds only at the end of the chase as they close in for the kill.

During the chase the huntsman and riders followed the hounds by the most direct route possible with the huntsman using voice and horn calls to encourage the hounds. Hunts in the Cumbrian Fells and other upland areas conducted their activities on foot rather than on horseback.

If the hounds lost the scent they would search around or 'cast' to re-find the line or the huntsman would take the hounds to where he thought the line may be found and cast the hounds himself. Sometimes hunt followers would assist the huntsman in finding the lost line by signalling to him that they had seen the fox. This was done by a loud high pitched shout or 'holloa' accompanied by a raised cap or arm in the air pointing in the direction of travel of the fox. Sometimes instead of a holloa a whistle would be blown. The huntsman would then take the hounds over to the signaller in an attempt to pick up the line and if successful the hunting would continue.

Occasionally the fox would escape the hounds altogether or the huntsman have to allow the fox to escape, for example if the fox had run onto land where the hunt were not permitted to enter. The huntsman would take the hounds to another covert and where the hounds would search for another fox.

If a fox had not managed to lose the hounds it would either be killed by them or it would try to evade the hounds by seeking refuge underground, known as 'going to ground'. In the former case the tiring fox would

eventually be out run by the superior stamina of the hounds which would kill and tear the fox to pieces. The huntsman would arrive at the scene of the kill and use his horn to blow 'the kill' as a way of congratulating the hounds. He may also have made whooping sounds to excite and encourage the hounds as they tore up the fox and may also have picked up the fox, encouraging the hounds to bite it. The huntsman and hounds would then move off in search of another fox if it wasn't too late in the day before the hunt was due to finish.

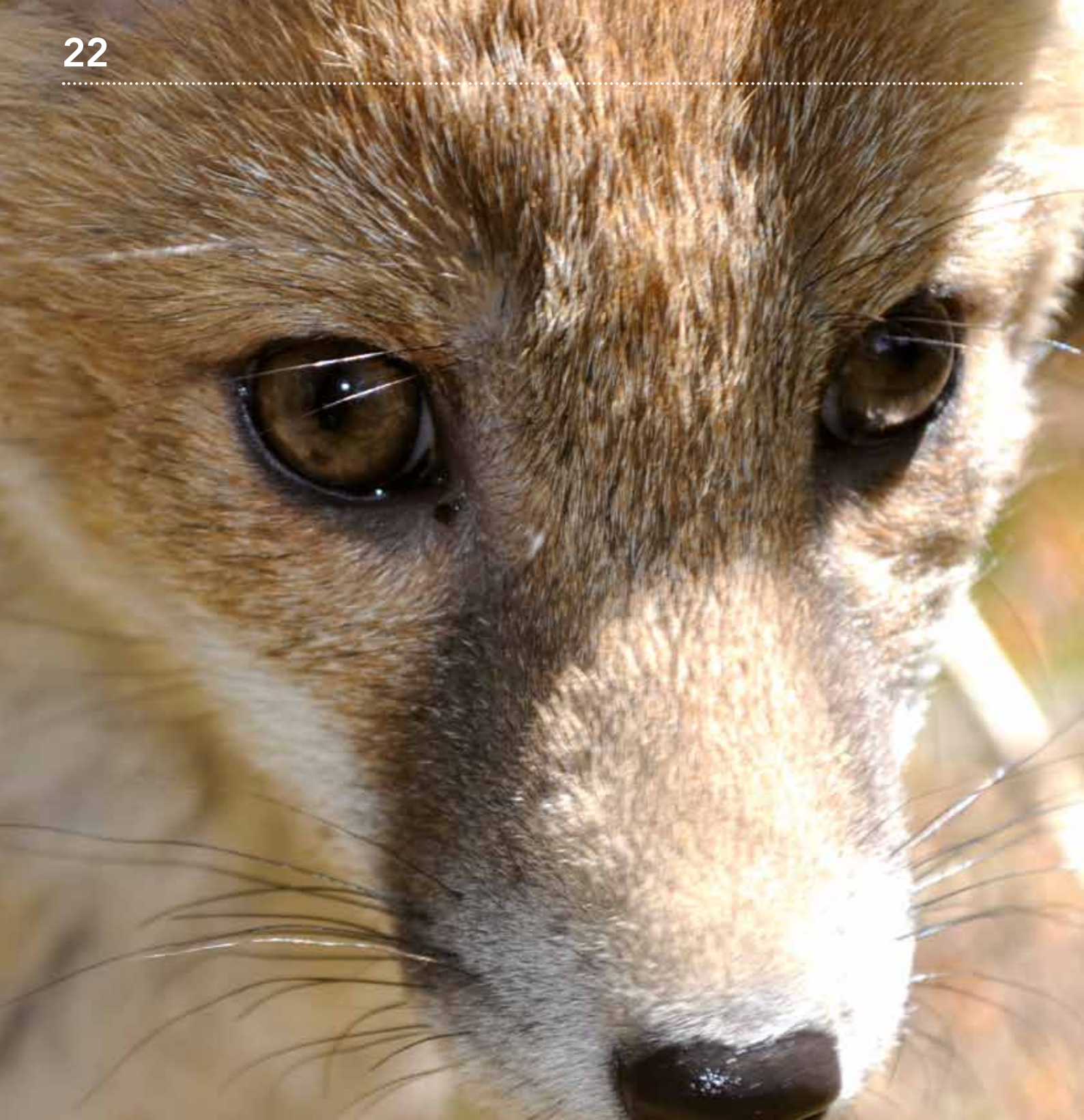
If the fox had sought refuge underground the pursuing hounds would gather around the tunnel entrances sniffing, pawing at the ground and baying. This was known as 'marking to ground' and indicated to the huntsman where the fox had gone to ground. Foxes have been known to seek refuge in hay bales, log piles or rock piles or even up trees. The huntsman would summon the terrier men and leave the hounds marking to ground until the terrier men had arrived so that the fox would be deterred from leaving. If it was decided to dig out and kill the fox, which could take a couple of hours in some cases, the huntsman would leave with the hounds to continue hunting elsewhere while the terrier men would block all but one of the holes and putting the terrier into the unblocked entrance. Before putting the terrier below ground it would have been fitted with a locator collar with a transmitter attached to it. This would emit a signal that was picked up by a receiver,

which shows accurately the depth to within a few centimeters. above ground. Once the terrier had found the fox it would either fight with the fox or keep it at bay. The terrier men would use the receiver to locate the terrier and hence the fox, and dig down to it. After removing the terrier the fox would be killed, normally with a humane killer. Alternatively nets may have been placed over the tunnel entrances so that the fox bolted into a net and then dispatched. Occasionally the terrier men would block all the entrances to trap the fox inside and return later in the day to dig it out and either kill it, bolt it for the hounds to chase, or take it away to be kept in an outbuilding to be released and hunted another day.

If it was decided to bolt the fox so it could be hunted again by the hounds, the huntsman would wait a short distance away with the hounds. With the holes left open, a terrier would be used underground to flush out the fox. Once the fox had bolted the terrier man would signal to the huntsman, and the hounds would be released and the fox hunted once again. Bolting was common amongst the fell packs in Cumbria due to the difficulty in digging the terrain.

In the case of Scottish hill packs or the gun packs of Wales and upland areas of England, a pack of hounds was used to flush the fox to guns.





## CUB HUNTING

The main fox hunting season was preceded by cub hunting (often now referred to as 'autumn' hunting) but unlike the fox hunting season, where the main objective was to provide sport for the members of the hunt, cub hunting was instead, for the most part, a training period for both hounds and foxes. The objective of cub hunting was three-fold:

- To 'enter' the new, young hounds. Hounds would not naturally hunt foxes and needed to be trained to do so. They not only needed to be trained to hunt the scent of a fox but had to learn not to hunt scent of other animals known as 'rioting'. They also had to learn to work as part of a pack and to obey the huntsman's horn and voice calls. Cub hunting also enabled the young hounds to get a taste of blood and rekindled the interest of the older more experienced hounds in hunting foxes.
- To disperse the fox cubs over a wider area so that there would be foxes in most coverts during the fox hunting season. Young foxes are full size by autumn, having been born in spring, but they are not yet sexually mature and are still living in their family group. As such they are easier to catch than adult foxes. About half of all foxes killed by a hunt during one hunting season took place whilst cub hunting. It was important not to kill too many foxes though as an adequate supply was needed for the main fox hunting season.
- To persuade the cubs that safety lay not in staying in cover but running across open country and so giving the hunt a good run and sport during the main fox hunting season.

Cub hunting started anytime from late July to the end of September, once harvesting was completed, and lasted until the Opening Meet which marked the beginning of the main season. In July and August the hunt would take place very early in the morning, as soon as it was light from 5.30 am onwards, when the scent was at it's best and before it was dried up by the summer heat; cub hunting also occasionally took place in the evenings, when again it was cooler and the scent was stronger. Hunting in the early mornings and evenings was also less trying for the hounds that would otherwise have to work in thick cover during the heat of the day. As the weeks progressed the morning meets would get later, as first light came later.

The meets would involve a smaller number of followers than in the main fox hunting season and would be invited by the master to attend. Formal hunting dress would not be worn during cub hunting and instead a tweed jacket or 'ratcatcher' would be worn by the hunt staff, masters and riders. Cub hunting was not carried out to provide sport

for the followers who instead had a role to play during the hunting. Cub hunting up until around mid-October would involve hunt followers on horse and on foot surrounding a covert so that cubs attempting to escape could be frightened back in, known as 'holding up'. If any cubs were seen trying to leave covert followers on horseback would slap their saddles and boots with riding crops and foot followers would shout, clap and wave their arms. By keeping foxes within the covert the hounds would learn to hunt in thick covert and listen and follow the cries of the older more experienced hounds without the distractions found in the open. It would also make cubs easier to catch and kill so that the hounds could get a taste of blood. The hunt may be out for 3 or 4 hours during this period.

From around mid-October the young foxes were encouraged to run in the open countryside which both dispersed them and trained the new hounds to hunt the right line in the open. The cubs would also have learned that safety was not found in staying in covert so they would take flight at the sound of the huntsman's horn and provide a good run for the hunt during the main season. The hunting day was longer during this time, up to 6 hours and started to resemble formal fox hunting.

As during main fox hunting season terrier men played their role. Fox earths and badgers setts were blocked the night before to keep foxes above ground so they could be found and hunted by the hounds. Any foxes that did go to ground while being pursued by hounds were dug out, killed and given to the hounds.

A young hound was considered to be 'entered' into the pack once he or she had successfully joined in a hunt in this fashion and had completed a season's hunting. Any young hounds that did not show suitable aptitude, and had to be removed from the pack were shot or occasionally rehomed.



## DEER HUNTING

In the UK there are three registered deer hunting packs that are located in the south west of England. These are the Devon and Somerset Staghounds, the Quantock Staghounds and the Tiverton Staghounds and all three hunted the red deer. Before disbanding in 1997 the New Forest Buckhounds hunted the male fallow deer. Roe deer were also hunted by at least two unregistered packs of buckhounds also based in the south west of England.

Deer hunting was undertaken with a pack of scent hounds which were specially bred deer hounds. The hounds used to hunt roe deer were basset/harrier crosses or beagles. All these dogs were trained to pursue the deer based on its scent and could hunt the line of the deer for up to an hour after the quarry had passed.

The hunting of red deer was divided into three phases, based on the sex and age of the deer. From the beginning of August to the end of October mature stags were hunted; from November to the beginning of March hinds were hunted and in March and April younger stags were hunted.

During the stag hunting season the hunt employed a harbourer whose role was to select one or more suitable stags from the herd for hunting. He was a local deer expert who would question local residents the day before the hunt about the presence of deer and look out for any evidence of deer such as fresh footprints ('slots'). At dawn on the day of the hunt the harbourer would return to the area and watch the movement of the deer and then inform the huntsman of the deer's whereabouts once he was satisfied that they would not move too far from the area. The huntsman would arrive in the area with about ten experienced hounds known as 'tufters' which would be used to separate the chosen stag from the herd. Once the harbourer was satisfied that the correct stag had been separated the whipper-in would collect the rest of the pack, numbering twenty to thirty hounds. The huntsman would then introduce the whole pack to the line or scent of the stag, which at this point could be an hour and several miles away.

During the hind hunting season a harbourer was not employed to select a particular individual as the hinds were almost indistinguishable. Initially the tufters were laid onto a herd of hinds and once a hind had broken away from the main group the rest of the hounds were brought in and the whole pack laid onto the single hind. Often the hunted hind would have last year's calf with her. During the days hunting several hinds could be hunted at different times due the hunted hind merging with a herd and another breaking away.

The length and duration of the hunt could vary considerably. The pursuit could last less than an hour or last all day. On average the overall time of the actual hunt was around 3 hours and the distance 19 km. The pursuit of the deer itself consisted of intermittent flights; the deer would run away from the hounds at speed, exerting itself maximally, until sufficient distance had been built up between it and the hounds after which the deer would slow down or even lie down. At this stage the deer could be 3-4 km ahead of the hounds. Sometimes the hounds would lose the scent altogether and would have to cast around to find it again. A series of these successive flights would continue until the deer escaped or became exhausted. In the latter case the stag would then stop avoiding the hounds and would 'stand at bay' where it would turn and face the hounds. Hinds also stop and may also hide by lying down in suitable cover. The hounds would surround the deer and bark, but would not kill the deer. Although the hounds were trained not to attack or savage the deer on occasions it has been known for the hounds to bite the deer. The hounds would continue to hold the stag at bay until the huntsman and gun carrier arrived.

While the deer was focused on the hounds it was approached by a member of the hunt carrying a licensed firearm. Several hunt followers would be carrying a firearm and the nearest available gun carrier would be expected to shoot the deer. The deer would be despatched at close quarters by a single-shot to the head by a regulation shot gun, or sometimes a humane killer (covered by the Deer Act 1991), causing, in most cases, instantaneous death. In some cases, however, the deer was not killed immediately and would move off wounded. The hounds would re-find the injured deer and bring it to bay so it could be despatched.

The carcass was taken to an open field either in the district where the deer was found or near or at the meet where the hunt supporters could then gather and watch the butchering and sharing out of the carcass, known as the 'carve up'. During the carve up various parts of the deer was shared out; the heart was given to the owner of the land where the deer was killed; the liver was cut up and distributed to various supporters of the hunt; the hooves or 'slots' and even the teeth were distributed as trophies. The offal was fed to the hounds and the remaining carcass returned to the kennels where it was butchered. An appointed 'venison distributor' would then share out the meat among the local farmers. The huntsman kept the skin and the head, if it was a stag, would be retained by one of the masters and mounted.





## HARE HUNTING

There are two species of hare in Britain: the brown hare and the mountain hare. Brown hares are widespread throughout lowland Britain although their distribution is not uniform; they are very scarce in the south west of England and Wales but more abundant in East Anglia. Mountain hares are found in heather moorland in parts of Scotland and in the Peak District of England. It was the brown hare that was hunted in England and Wales.

Hare hunting was undertaken with several different types of scent hounds: beagles, harriers and basset hounds. Hares were hunted on horseback by packs of harriers and on foot by packs of beagles and basset hounds.

The Association of Masters of Harriers and Beagles (AMHB) currently have 67 beagle packs and 22 harrier packs registered with them (some of those harrier packs traditionally hunted foxes) and the Masters of Basset Hounds Association (MBHA) currently represents 10 basset hound packs.

The hunting season for beagle packs starts in September and runs until March; harrier packs start hunting at the end of August until March and the hunting season for basset hound packs starts in October and finishes in March.

The traditional hunting day began with the gathering of the hunt at the meet which would have been arranged well in advance. The hunt officials, the huntsman and one or more of the whippers-in, would be wearing a uniform so as to be easily identified. The uniform consisted of a hunt coat, normally green, white breeches, caps or riding hats,

riding boots for harrier packs or training or hockey shoes for basset and beagle packs. The huntsman would have given instructions to his whipper-in, or other designated followers, to position themselves so that, as far as is possible, hounds can be kept away from roads and from areas where livestock could be disturbed. For a beagle meet, the followers (the 'field') might have numbered less than a dozen on a mid week day, to fifty or more on a Saturday. For a harrier meet there would be the mounted 'field', car followers and foot followers.

The huntsman would then move off with his hounds to 'draw' for their first hare where the hounds would be cast over open ground and several miles may have been covered before a hare was found. Finding a hare was dependent on a number of factors which included the skill of the huntsman and hounds, the availability of hares and on the scenting conditions; the latter dependant on both the weather conditions and the type of terrain. Each hound would be seen trying to pick up any small trace of scent where a hare might have been feeding. Alternatively the hounds may have sighted the hare and then hunted her by scent or the hare may have been seen by one of the whips or followers which would be indicated to the huntsman by raising their hat or arm and pointing in the direction of the hare. The huntsman would then take the hounds over to the signaller where the hounds would pick up the scent.

On poor scenting days hounds would find it difficult to hold the line for more than a few fields and subsequently hunted slowly before running out of scent. On a good scenting day, hounds were able to run fast, holding the scent over several miles. The followers would follow at a discreet distance so as not to interfere with the hounds. The huntsman would encourage the hounds with voice and horn calls.

A description of a typical hare hunt was given by Admiral Sir James Eberle, chairman of the AMHB, in a joint submission to the Burns Inquiry in 2000 by the AMHB and the MBHA:

"After a while, the pack will be most likely to lose the scent, and will stop and cast themselves around to recover the line. This is known as a 'check', for which there are numerous reasons. The hare may have turned sharply, in which case the hounds may have over-run the line. The scent may have failed because the hare has run over freshly manured ground, or ground that has been foiled by sheep. The hare may have been 'headed' (made to 'alter course') by, for instance, running into straying hunt followers or unexpectedly into a herd of cattle. Under such conditions, a hare will lose much of its scent, making it difficult to continue the hunt. If the hounds do not by themselves recover the line, the huntsman

will try to assist by 'casting' the pack in the direction which his experience tells him that the hare may have taken. It also often happens that the hare has stopped and hidden itself ("clapped") and must be re-found. During a cast, which may last five or ten minutes - or even longer if the hare has clapped - it is not unusual that a different hare will get up and hounds will 'change'. Under these conditions, hounds will be unlikely to catch their original hunted hare. Thus the afternoon's hunting continues. The normal hunt will involve a number of such 'checks'. It is only on the few occasions when there is a good scent on clean ground and there is no outside interference, will there be a continuous and unbroken pursuit by hounds, unaided by their huntsman, from 'find' to 'kill'."

If the hare scenting conditions were good and the hare had not managed to evade the hounds the superior stamina of the hounds would outstrip her as she tired and the pack would then seize her and kill her. Occasionally due to the speed of the pack they could lose the huntsman and followers who were on foot and then disappear from view and may not be found for an hour or more.

Hares tend to stick to their own territory and don't venture onto new ground and as a result hare hunting normally took place in a limited area of country, of not more than one or two miles square. While a few straight runs have been known often the hare would run in a wide circle. Sometimes runs were fast and with almost no checks, in which case a hunt may have lasted no more than thirty minutes or so. More typically, a single hunt, whether ending with a kill or not, could have lasted up to two hours.



## MINK AND OTTER HUNTING

During the twentieth century the European Otter population in the UK suffered a sharp decline. The otter is a large member of the weasel family (mustelids) with an amphibious lifestyle living in undisturbed rivers, streams and estuaries but as a result of river pollution, habitat destruction, persecution and hunting were on the verge of extinction in the 1960s. During this period there were 11 registered otter hunts in England and Wales and between the years 1958 and 1963 those packs killed 1,065 otters. By 1977 there were 9 registered packs of otterhounds.

In 1978, the otter became a protected species and is currently Classified as Near Threatened on the IUCN Red List and is listed under CITES Appendix 1. The otter is protected in the UK under the Wildlife and Countryside Act 1981, The Conservation of Habitats and Species Regulations 2010 (the Habitat Regulations) and are classified as a Priority Species in the UK Biodiversity Action Plan. When the otter became a protected species and the hunting of otters was no longer permitted, the Masters of Minkhounds Association was formed to govern and promote the hunting of mink in the United Kingdom. Some of otter hound packs turned their attention to hunting mink while new packs were formed to hunt mink. Currently the MMHA represents 21 packs of minkhounds.

American mink were introduced into the UK in 1928 for fur farming and after having been released or escaped from mink farms can now be found all over the UK, where they are considered a threat to native species. Like otters, mink live along the banks of rivers and streams and therefore mink hunting was a river/lake/stream activity. One of the functions of the MMHA was the registration of hunting country. This meant that an individual mink hunt had exclusive use of an area which may comprise a river system, a group of rivers or those rivers within a defined geographical area and nearly all rivers and streams in rural England and Wales were within the registered country of a mink hunt. As a condition of registration with the MMHA, each mink hunt had to supply a map of its hunt country to the MMHA so that the boundaries between individual mink hunting countries were known. Each mink hunt within such boundaries could operate exclusively within it. On occasions one hunt would invite another to meet on a river in its own country. This is known as an 'invitation meet'.

Registered mink hunts usually would have between 10 and 30 hounds in a pack. Most hunts breed their own hounds but also may obtain draft hounds from other mink hunting packs and other hunts. In the latter case it was important for a hound which had previously hunted fox to transfer its attention to mink, which it soon learned from the other

pack members. A pack of mink hounds is normally drawn from the different types of English foxhounds, Welsh foxhounds, otterhounds, harriers and the occasional bloodhound.

The mink hunting season usually ran from April to early October, depending on local water and weather conditions. All hunts took out their hounds on at least one day a week; usually a Saturday and in addition meets were often arranged on weekday afternoons or evenings and on Bank Holidays.

The meet would normally take place at a pre-arranged place such as a pub, a farm or a convenient location where cars could be parked. Mink hunting was carried out on foot and carried out along a riverbank. Initially, the huntsman would draw the hounds along the river bank trying to pick up the scent of a mink while hunt supporters would follow on behind. The huntsman was assisted by whippers-in, whose task was to help to control the hounds and their hunting activity which would have included keeping hounds away from such places as roads and railways and from hunting non-target species. Also following the hunt would be a terrier man whose role would be to use terriers to flush out or dig out mink that had gone to ground in tree roots or holes in the riverbank.

The hounds would search the riverbank until a mink had been found at which point they would start 'speaking' as in other forms of hunting. Often the supporters would spot a mink and alert the huntsman of its presence. Although sometimes within sight when initially found a mink was hunted by scent along the river bank where it would make maximum use of cover and the water. If the hounds lost the scent the huntsman would cast backwards and forwards along the river and if unsuccessful would then cast both sides of the river away from the banks along drainage ditches, tributaries and hedgerows in an attempt to re-find the mink.

Mink have small territories (less than a mile of riverbank) and so do not travel far once they are roused. The mink used its size, agility and swimming ability to evade the hounds, doubling back and retracing its tracks in order to confuse the pursuing pack. Mink often took refuge in holes in the riverbank or tree roots whereupon the hunt would attempt to flush out the mink using terriers, sticks or spades so it could be hunted once more.

Mink would also attempt to escape the hounds by running up trees; in this instance supporters would shake the tree or throw stones in order to dislodge the mink and if that was not successful the mink would be shot (The MMHA Rules said that each hunt should have access to a suitable shotgun during a hunting day). Once in full swing the hunt would be going up and down the river in a small area chasing the mink from one refuge to another. If the mink did not manage to escape it would be killed by the hounds, the terriers or was drowned. Only occasionally was the mink shot.



A mink hunt could last up to 2 hours once one is located, depending on scenting conditions, the ability of the hounds, the terrain and the skill of the huntsman. In some cases a mink may be caught very quickly or 'chopped' but more often than not a mink was able to evade the hounds in the first instance.

Any form of hunting with dogs on riverbanks, lakes, ponds or other watercourses could also result in criminal proceedings in respect of protected species and their habitats.

**The Otter (*Lutra lutra*) is a protected species and is afforded protection under both Schedule 5 of the Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010.**

#### Offences:

- to kill, injure or capture an otter
- disturb an otter in an otter's place of shelter or resting

- damage or destroy an otter's place of shelter or resting (NB. Under the Habitat Regulations this is an absolute offence there is no requirement to prove intent).
- possess, control, transport, sell, exchange or offer for sale/exchange any live or dead otter or any part of an otter
- keep otters in captivity

#### Disturbing a protected species includes any activity that affects:

- a group's ability to survive, breed or raise their young
- the species' numbers or range in the local area

**Other species, such as kingfisher, water vole and great crested newt, may share habitat with otters; they, too, are afforded special protection under either the WCA or the Habitat Regulations, or both. It is strongly recommended that advice be sought from a trained Police Wildlife Crime Officer in all cases.**