

LEGISLATION

NIGHT SHOOTING

ENGLAND & WALES
BEST PRACTICE GUIDES



Introduction

The Deer Act 1991 (as amended by Statutory Instrument 2007, No 2183 and referred to below as “the Deer Act”) prohibits the shooting of deer at night (defined as ‘between the expiration of the first hour after sunset and the commencement of the last hour before sunrise’) except in certain restricted circumstances.

Exceptions to the night shooting prohibition are:

- ◆ to prevent suffering,
- ◆ in pursuance of a sec 98 Notice under the Agriculture Act 1947, or
- ◆ under a Licence to kill or take deer at night issued under the Deer Act 1991 (as amended)

Dealing with injured or sick deer is beyond the scope of this guide (see Humane Dispatch Guide), whilst Notices to shoot deer under the Agriculture Act are only considered in very exceptional circumstances and are rarely served.

This Guide explains the provisions for issuing night shooting licences under the Deer Act and the best practice that those issued with a licence are required to follow. Some of the conditions that may form part of the licence are also covered. Compliance with this Best Practice Guide will be a licence condition. The overall aim is to ensure that any night shooting carried out is as safe and humane as possible.

The licensing authorities consider night shooting a ‘last resort’ and that deer management should normally be conducted during daylight hours and, where appropriate, in co-operation with neighbours. This Guide links to the Shooting Deer, Humane Dispatch, Deer Legislation, Damage Prevention, Deer Management Group and Risk Assessment Guides.

Purposes for Night Shooting

Under Section 8 (3D) of the Deer Act a licence may be granted to any person by Natural England, in relation to land in England, or by the Countryside Council for Wales, for land in Wales, to allow the

shooting of deer at night. The purposes for which licences may be issued are:

- ◆ Preserving public health or public safety,
- ◆ Conserving the natural heritage, or
- ◆ Preventing serious damage to property e.g. crops

Before granting a licence, the licensing authority must be satisfied that there is a serious risk of deer of the species concerned putting public health or public safety at risk, or of causing deterioration to the natural heritage or of causing serious damage to property. In the case of damage to property, there must have been serious damage in the year preceding the licence application.

For the three licensable purposes above, there must be no satisfactory alternatives to night shooting. This means that methods such as daytime shooting in the Open Season, co-operative deer management amongst neighbouring landowners, non-lethal deterrents or fencing, must have been found to be either ineffective or impracticable to implement, with reasons given.

NB – Licences to shoot deer at night to prevent serious damage to property cannot be issued during the relevant Close Season for the deer species concerned. Where deer are causing serious damage to property during the Close Season, reliance on section 7 of the Deer Act (‘Farmer’s Defence’) should be considered. Sect 7 does not permit night shooting.

The applicant must have right of access to the land to cull deer.

Licence conditions

Each licence is subject to specific conditions on a case by case basis. Conditions that will apply in most cases are:

- ◆ The duration for which the licence is valid.
- ◆ The precise area covered.
- ◆ The species, sex and number of deer which may be shot.

- ◆ The type of firearm permitted i.e. a deer-legal calibre rifle using expanding ammunition.
- ◆ Compliance with the Deer Initiative Night Shooting Best Practice Guide.
- ◆ A requirement to inform local Police when night shooting is taking place.
- ◆ A requirement to consider notifying the responsible Authority that night shooting is taking place if there are Public rights of way on site.

The licensing authority will monitor compliance with licence conditions. This is likely to involve site visits and may include accompanying the night shooting team on one or more occasions.

Licence holders will be expected to adhere to the best practice below, plus any other specific conditions.

Up to four people (including the licensee) may normally be authorised to kill deer under a licence.

Best Practice

Public safety and the humane dispatch and welfare of deer are paramount in the issue of night shooting licences and must be the overriding considerations. Licensees are advised to undertake a risk assessment including points within this guide to help ensure safe and humane working practices.

Shooters must be familiar with the firearm to be used and possess the appropriate firearm certification.

Before night shooting takes place, the licensee and operators involved must make themselves thoroughly familiar with the site. Safe and unsafe areas must be identified; shooting must only take place where there is a suitable backstop.

Anyone likely to be in the vicinity should be given advance warning. Adjacent occupiers should be informed, and agreement reached on roles and responsibilities e.g. what happens if an injured animal runs on to a neighbour's land (consider offences relating to trespass with a firearm and poaching).

Minimum Team: The minimum operating team is two; a Spotter and a Shooter. If a vehicle is used a driver will also be necessary. The duties of each team member are:

- ◆ **Spotter** - To locate and help select deer to be shot and to mark the position of shot deer for prompt recovery. To ensure the area is safe to shoot.

- ◆ **Shooter** - To confirm identification of the target animal, to shoot and to observe the effect of the shot. The Shooter should control all movement of personnel.

- ◆ **Driver** - To position the vehicle in collaboration with the team and to observe and assist in locating and recovering fallen animals.

Vehicles: Section 4 of the Deer Act prohibits shooting from a moving vehicle. The vehicle must therefore be stationary with the engine turned off. The vehicle may need to be adapted to provide:

- ◆ A means of preventing participants from falling from the vehicle or being injured when the vehicle is moving e.g. a safety cage in the bed of a pick-up.
- ◆ A rest such as a shooting rail that provides a good support for the rifle when shooting and lifts the muzzle well clear of the supporting surface. Care must be taken to ensure that parts of the vehicle or its passengers cannot easily be brought into the line of fire.

Shots must never be taken by stretching across the driver or passenger inside the cab.

Good communication between the Shooter, the Driver and the Spotter is essential. When shooting, no one should step outside the vehicle unless given the all-clear by the Shooter.

Visibility & Shot: Deer must be positively identified, fully visible and clear of obstructions before a shot is attempted. It is critical that the background is safe with a wide margin for error. Heart/lung shots are recommended when night shooting. Shots should be limited to the appropriate range and should normally be within 100m. If there is any doubt about the safety or humaneness of a particular shot it must not be attempted.

Dogs: A suitable dog should be available to assist with carcase recovery if necessary.

Spotting devices: These are an essential aid to finding and clearly identifying target and non-target animals. Spotters can use spotlights (white and colour filtered light) with binoculars, or Night Vision (image intensifiers or digital) monoculars with infra-red illuminators, or Thermal Imaging spotting scopes. With all spotlights and illuminators, care should be taken not to shine the light directly into people's eyes, skywards or towards occupied buildings or roads. Rifle sights must never be used as a substitute for spotting devices.

Firearms and Ammunition: The equipment used must be deer legal and suitable for the purpose. The accuracy/zeroing of the rifle and scope and effectiveness of the shooting set up must be checked in daylight, before undertaking any night shooting. The rifle must be unloaded at all times except when shooting is in progress. A back up firearm (e.g. a shotgun) should be carried for the dispatch of wounded animals at close quarters where a second rifle shot may be unsafe. This must be unloaded except at the moment of use. It is recommended that either the Spotter or the Driver acts as the back-up shooter but only under direction from the Rifle Shooter. Considerations as to safe backstop are the same as with the rifle.

Rifle Sights:

Daytime Telescopic Sights: Daytime telescopic sights (used with a spotlight) should have good light gathering properties. The minimum recommended specification is 6 x 40. A minimum spotlight rating of 1 million candle-power (or lumens/watts equivalent) is recommended.

Night Vision Sights: The only permissible alternatives to daytime telescopic sights are either Generation '2' or '3' imaging intensifying Night Vision sights with infra-red (IR) illumination, or comparable digital Night Vision sight with IR illumination.

Thermal Imaging Sights: Thermal Imaging rifle sights are not permitted for use under a night shooting licence.

Safety: Working at night can increase the likelihood of mistakes. These can be minimised by a well organised routine.

A first aid kit should always be carried. Details of location and expected time of return should be given to a third party. A radio or mobile phone should be carried.

Removal and processing of carcasses

All carcasses should be removed as soon as possible and handled in accordance with Best Practice. It is recommended that where possible, gralloching and further processing are carried out in a deer larder rather than in the field.

Licence Applications

Potential applicants are advised to consider if their situation meets the criteria for issue of a licence before making an application. In particular what satisfactory alternative methods may be available to them and whether they could usefully seek advice e.g. from the Deer Initiative. Applications for licences must be made to Natural England or the Welsh Assembly Government (WAG) local offices.

Further Information

Natural England:

<https://www.gov.uk/government/collections/deer-licences>

WAG local offices:

English language <http://wales.gov.uk/topics/environmentcountryside/ContactSandRD/?lang=en>

Welsh language http://wales.gov.uk/about/departments/depc/epcstructure/SRD_office_map/?lang=cy

or http://wales.gov.uk/topics/environmentcountryside/countryside_policy/farming/wildlifemanagement?lang=en