

Hunting Bill

[AS AMENDED IN COMMITTEE]

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B I L L

[AS AMENDED IN COMMITTEE]

TO

Make provision about hunting wild mammals with dogs; to prohibit unregistered hare coursing; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

OFFENCES

1 Hunting wild mammals with dogs

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

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- (a) registered, or
- (b) exempt.

2 Registered hunting

(1) Hunting by an individual is registered if he is the subject of individual registration in respect of—

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- (a) wild mammals of the species hunted, and
- (b) the area in which the hunting takes place.

(2) Hunting by an individual is also registered if—

- (a) he participates in hunting by a group,
- (b) at least one of the group is registered under a group registration in respect of—

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- (i) wild mammals of the species hunted, and
- (ii) the area in which the hunting takes place, and

-
- (c) his participation in the hunting is recorded under arrangements made in pursuance of section 27(5).
- (3) Hunting by an individual is also registered if—
- (a) he participates in hunting by a number of individuals,
 - (b) one of the individuals is the subject of individual registration in respect of—
 - (i) wild mammals of the species hunted, and
 - (ii) the area in which the hunting takes place, and
 - (c) the condition of registration imposed by section 26(5) (maximum number of hunters) is complied with. 10
- (4) In this Act—
- “group registration” means registration under Part 2 pursuant to an application under section 13, and
 - “individual registration” means registration under Part 2 pursuant to an application under section 12. 15
- 3 Exempt hunting**
- (1) Hunting is exempt if it is within a class specified in Schedule 1.
 - (2) The Secretary of State may by order amend Schedule 1 so as to vary a class of exempt hunting.
- 4 Hunting: assistance** 20
- (1) A person commits an offence if he knowingly permits land which belongs to him to be entered or used in the course of the commission of an offence under section 1.
 - (2) A person commits an offence if he knowingly permits a dog which belongs to him to be used in the course of the commission of an offence under section 1. 25
- 5 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—
- (a) registered, or
 - (b) exempt. 30
- 6 Hare coursing**
- (1) A person commits an offence if he—
 - (a) participates in an unregistered hare coursing event,
 - (b) attends an unregistered hare coursing event,
 - (c) knowingly facilitates an unregistered hare coursing event, or 35
 - (d) permits land which belongs to him to be used for the purposes of an unregistered hare coursing event.
 - (2) Each of the following persons commits an offence if a dog participates in an unregistered hare coursing event—
 - (a) any person who enters the dog for the event, 40
 - (b) any person who permits the dog to be entered, and

- (c) any person who controls or handles the dog in the course of or for the purposes of the event.
- (3) A “hare coursing event” is a competition in which dogs are, by the use of live hares, assessed as to skill in hunting hares.

PART 2

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REGISTRATION

Introductory

7 Tests for registration: utility and least suffering

- (1) The first test for registration in respect of proposed hunting of wild mammals is that it is likely to make a significant contribution to one or both of, firstly, the management of wildlife and, secondly, the prevention or reduction of serious damage which the wild mammals to be hunted would otherwise cause to—
- (a) livestock,
 - (b) game birds or wild birds (within the meaning of section 27 of the Wildlife and Countryside Act 1981 (c. 69)),
 - (c) food for livestock,
 - (d) crops (including vegetables and fruit),
 - (e) growing timber,
 - (f) fisheries,
 - (g) other property, or
 - (h) the biological diversity of an area (within the meaning of the United Nations Environmental Programme Convention on Biological Diversity of 1992).
- (2) The second test for registration in respect of proposed hunting of wild mammals is that a contribution equivalent to that mentioned in subsection (1) could not reasonably be expected to be made (whether by the person proposing to hunt or by another person) in a manner likely to cause significantly less pain, suffering or distress to the wild mammals to be hunted.

8 The registrar

- (1) The Secretary of State shall appoint a person (“the registrar”) to maintain a register for the purposes of this Act.
- (2) The registrar shall hold and vacate office in accordance with the terms and conditions of his appointment.
- (3) The registrar shall comply with—
- (a) regulations made by the Secretary of State under this Part, and
 - (b) any direction given to the registrar by the Hunting Tribunal (established under section 9) in the course of or on the determination of proceedings under this Part.
- (4) In exercising his functions the registrar shall have regard to any relevant decision of the Hunting Tribunal.
- (5) The Secretary of State may—

-
- (a) pay remuneration and allowances to the registrar;
 - (b) defray expenses of the registrar;
 - (c) provide staff, equipment or other facilities for the registrar.
- (6) Service as the registrar is employment in the civil service of the State.
- 9 The Hunting Tribunal** 5
- (1) There shall be a Hunting Tribunal.
 - (2) Schedule 2 (which makes provision about the Tribunal) shall have effect.
 - (3) The Lord Chancellor may make rules –
 - (a) regulating the exercise of a right to appeal or apply to the Tribunal;
 - (b) about practice and procedure in relation to proceedings before the Tribunal. 10
- 10 Prescribed animal welfare bodies**
- (1) The Secretary of State shall by regulations prescribe one or more bodies as prescribed animal welfare bodies for the purposes of this Part.
 - (2) The Secretary of State may prescribe a body only if he thinks that it is wholly or partly concerned with the protection or welfare of animals. 15
 - (3) The Secretary of State may make a payment by way of grant (which may be subject to conditions) to a prescribed animal welfare body.
- 11 Advisory bodies**
- (1) English Nature may provide advice on request to the registrar or the Tribunal about the exercise of a function under this Act in relation to England. 20
 - (2) The Countryside Council for Wales may provide advice on request to the registrar or the Tribunal about the exercise of a function under this Act in relation to Wales.
- Application for registration* 25
- 12 Application by individual**
- (1) An individual may apply to the registrar to be entered in the register in respect of hunting which he proposes to carry out.
 - (2) An applicant must be at least 16 years of age.
 - (3) Where an applicant is younger than 18 years of age, his application must be countersigned by a parent or guardian. 30
 - (4) An application must –
 - (a) be in the prescribed form,
 - (b) contain the prescribed information,
 - (c) be accompanied by the prescribed documents (if any), and 35
 - (d) be accompanied by the prescribed fee.
 - (5) An application must specify –

- (a) the species of wild mammal which it is proposed to hunt, and
 - (b) the area in which it is proposed to hunt.
- (6) An application may specify a condition to be included in the register as a condition of the proposed hunting.
- (7) In this section “prescribed” means prescribed by regulations made by the Secretary of State. 5

13 Application on behalf of group

- (1) One or more individuals may apply to the registrar to be entered in the register in respect of hunting to be carried out jointly by –
- (a) the individual registered or one or more of the individuals registered, 10
and
 - (b) one or more individuals under the supervision of the individual registered or of one or more of the individuals registered.
- (2) Each of the applicants must be at least 16 years of age.
- (3) An application must – 15
- (a) be in the prescribed form,
 - (b) contain the prescribed information,
 - (c) be accompanied by the prescribed documents (if any), and
 - (d) be accompanied by the prescribed fee.
- (4) An application must specify – 20
- (a) the species of wild mammal which it is proposed to hunt, and
 - (b) the area in which it is proposed to hunt.
- (5) An application may specify a condition to be included in the register as a condition of the proposed hunting.
- (6) An application must, in particular, include conditions specifying – 25
- (a) a maximum number of individuals who may hunt at any time,
 - (b) arrangements to ensure compliance with the condition about records imposed by section 27(5), and
 - (c) arrangements for supervision by the individual or individuals to be registered of non-registered individuals participating in the proposed hunting. 30
- (7) An application may request that one or more of the registered individuals should be registered in respect of hunting to be carried out without the participation of a non-registered individual (as well as in respect of the joint hunting mentioned in subsection (1)). 35
- (8) Section 2(1) shall have effect as if the reference to individual registration included a reference to registration by virtue of subsection (7) above (but section 2(3) shall not apply).
- (9) In this section “prescribed” means prescribed by regulations made by the Secretary of State. 40

14 Handling

- (1) The Secretary of State may make regulations about the treatment of an application under section 12 or 13.
- (2) The regulations may, in particular –
 - (a) enable the registrar to request, before determining an application, the provision of information or additional information by the applicant or applicants or by a prescribed animal welfare body; 5
 - (b) make provision about timing;
 - (c) enable or require the registrar to permit the amendment of an application, by the applicant or applicants, before its determination. 10

15 Renewal of application

- (1) Where an individual application is refused, the applicant may not make a new individual application during the period of six months beginning with the date on which the first application is finally determined.
- (2) Where an individual registration is cancelled the individual may not make a new individual application during the period of six months beginning with the date of cancellation. 15
- (3) Where a group application is refused, none of the applicants may be party to a new group application during the period of six months beginning with the date on which the first application is finally determined. 20
- (4) Where a group registration is cancelled none of the group may be party to a new group application during the period of six months beginning with the date of cancellation.
- (5) Where an individual is removed from a group registration or an application to add him to a group registration is refused he may not be party to a new group application during the period of six months beginning with the date on which the removal is effected or the first application is finally determined. 25
- (6) But –
 - (a) a refusal, cancellation or removal, other than one under section 16(3)(b), 18(3)(b), 31(6) or 32(1), does not prevent a new application which – 30
 - (i) relates only to species to which the old application or registration did not relate, or
 - (ii) relates only to an area to which the old application or registration did not relate, and
 - (b) the registrar may permit an application despite any of subsections (1) to (5) by reason of a material change of circumstances. 35
- (7) In this section –

“group application” means an application under section 13, and
“individual application” means an application under section 12.

Determination 40

16 Determination by registrar

- (1) This section applies to an application for registration under section 12 or 13.

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- (2) On receipt of an application the registrar shall –
- (a) invite the prescribed animal welfare bodies to make written representations about the application within a specified period, and
 - (b) consider any written representations made by any of those bodies within that period. 5
- (3) If the registrar is satisfied that the hunting proposed in an application would satisfy the tests specified in section 7 he shall –
- (a) grant the application, or
 - (b) refuse the application if he thinks that the applicant, or any of the applicants, is not a fit and proper person to be registered by reason of a matter specified in subsection (4). 10
- (4) Those matters are –
- (a) conviction for an offence under this Act,
 - (b) conviction for an offence under the Protection of Animals Act 1911 (c. 27), 15
 - (c) conviction for an offence under the Protection of Animals (Scotland) Act 1912 (c. 14),
 - (d) conviction for an offence under section 2 of the Protection of Badgers Act 1992 (c. 51),
 - (e) conviction for an offence under the Wild Mammals (Protection) Act 1996 (c. 3), 20
 - (f) conviction for an offence under the Protection of Wild Mammals (Scotland) Act 2002 (asp 6),
 - (g) matters relating to the cancellation of the registration of the applicant or any of the applicants or his or their removal from a group registration, and 25
 - (h) matters relating to the cancellation of the registration of an individual who would be likely to hunt in reliance on the registration or his removal from a group registration.
- (5) If the registrar is satisfied that the hunting proposed in an application would satisfy the tests specified in section 7 if carried out in accordance with conditions other than those specified in the application, he may, with the consent of the applicant or applicants –
- (a) grant the application, and
 - (b) add to or vary the conditions specified in the application. 35
- (6) Where the registrar determines not to grant an application under subsection (3) or (5) he shall refuse it.
- (7) In considering an application the registrar shall assume, unless he has reason not to, that the hunting proposed would be carried out in accordance with –
- (a) the conditions specified in section 26 or 27, and 40
 - (b) any condition specified in the application.

17 Appeal to Tribunal

- (1) Where the registrar refuses an application under section 12 or 13 the applicant or applicants may appeal to the Tribunal.
- (2) Where the registrar grants an application under section 12 or 13 a prescribed animal welfare body may appeal to the Tribunal. 45

18 Determination by Tribunal

- (1) This section applies where an appeal is brought to the Tribunal under section 17 against the registrar’s decision on an application.
- (2) The Tribunal shall give the applicant or applicants and the prescribed animal welfare bodies an opportunity to make representations. 5
- (3) If satisfied that the hunting proposed in the application would satisfy the tests specified in section 7 the Tribunal shall –
- (a) grant the application, or
 - (b) refuse the application if the Tribunal thinks that the applicant, or any of the applicants, is not a fit and proper person to be registered by reason of a matter specified in section 16(4). 10
- (4) If satisfied that the hunting proposed in the application would satisfy the tests specified in section 7 if carried out in accordance with conditions other than those specified in the application, the Tribunal may, with the consent of the applicant or applicants – 15
- (a) grant the application, and
 - (b) add to or vary the conditions specified in the application.
- (5) Where the Tribunal determines not to grant the application under subsection (3) or (4) it shall refuse the application.
- (6) In considering an appeal under section 17 the Tribunal shall assume, unless it has reason not to, that the hunting proposed in an application would be carried out in accordance with – 20
- (a) the conditions specified in section 26 or 27, and
 - (b) any condition specified in the application.
- (7) On determining an appeal the Tribunal may – 25
- (a) give a direction to the registrar;
 - (b) make any order that it thinks appropriate.

19 Appeal from Tribunal

- (1) A person who is party to proceedings before the Tribunal under section 17 may appeal on a point of law to the High Court. 30
- (2) An appeal under subsection (1) may be brought only with the permission of –
- (a) the Tribunal, or
 - (b) if the Tribunal refuses permission, the High Court.

*The register***20 Form of the register** 35

The Secretary of State may make regulations about –

- (a) the form of the register;
- (b) the manner in which it is maintained.

21 Content of the register

In the case of each registration the register shall record – 40

-
- (a) the species of wild mammal in respect of the hunting of which the registration has effect,
 - (b) the area in respect of hunting in which the registration has effect,
 - (c) any other information provided in or with the application for registration, 5
 - (d) any conditions of the registration (apart from those specified in section 26 or 27), and
 - (e) such other matters as may be prescribed by regulations made by the Secretary of State.
- 22 Inspection of the register** 10
- (1) The registrar –
 - (a) shall make the register available for inspection by the public at all reasonable times, and
 - (b) shall provide a copy of an entry in the register to any person who requests it. 15
 - (2) But the Secretary of State may by regulations –
 - (a) provide that information of a specified kind shall not be made available for inspection under subsection (1)(a) and shall be omitted from copies provided under subsection (1)(b);
 - (b) require the payment of a specified fee as a precondition of the provision of a copy under subsection (1)(b). 20
 - (3) Regulations under subsection (2)(a) may make provision by reference to a request of a registered individual.
- 23 Standard duration of registration**
- Registration under this Part shall have effect for – 25
- (a) the period of three years starting with the date on which it is effected, or
 - (b) such shorter period starting with that date as may be specified in the application for registration.
- 24 Renewal of registration**
- (1) Registration under this Part may be renewed so as to continue to have effect for – 30
 - (a) the period of three years starting with the date on which renewal is effected, or
 - (b) such shorter period starting with that date as may be specified in the application for renewal. 35
 - (2) A provision of this Act which has effect in relation to an application for registration shall have effect (with any necessary modifications) in relation to an application for the renewal of a registration.
 - (3) If an application for renewal of registration is made more than six months before the registration would otherwise expire, the registration shall continue to have effect until the application is finally determined. 40
 - (4) Subsection (3) has effect –
 - (a) despite section 23, but

- (b) subject to any power under this Part to cancel or vary a registration.
- (5) Regulations under this Part may make special provision in relation to applications for renewal.

25 Handling of applications

- (1) The Secretary of State may make regulations about the treatment of an application under this Part (other than under section 12 or 13). 5
- (2) The regulations may, in particular –
- (a) enable the registrar to request, before determining an application, the provision of information or additional information by the applicant or applicants or by a prescribed animal welfare body; 10
- (b) make provision about timing.

Conditions of registration

26 Automatic conditions of individual registration

- (1) Individual registration is subject to the conditions specified in this section.
- (2) The first condition is that in the course of hunting carried out in reliance on the registration reasonable steps are taken to ensure – 15
- (a) that any wild mammal injured or captured is killed quickly and humanely,
- (b) that any wild mammal shot in accordance with paragraph (a) is shot by a competent person, and 20
- (c) that hunting is carried out on land only with the prior permission of the occupier of the land or, in the case of unoccupied land, a person to whom it belongs.
- (3) The second condition is that any inspector appointed by a prescribed animal welfare body is permitted on request to accompany the registered individual for the purpose of inspecting hunting carried on in reliance on the registration. 25
- (4) The third condition is that there is insurance in place in respect of loss or damage caused to persons other than the registered individual in the course of hunting carried on in reliance on the registration.
- (5) The fourth condition is that where the registered individual hunts in reliance on the registration not more than two other individuals (whether registered or not) participate in the hunting. 30

27 Automatic conditions of group registration

- (1) Group registration is subject to the conditions specified in this section.
- (2) The first condition is that in the course of hunting carried out in reliance on the registration reasonable steps are taken to ensure – 35
- (a) that any wild mammal injured or captured is killed quickly and humanely,
- (b) that any wild mammal shot in accordance with paragraph (a) is shot by a competent person, and 40

- (c) that hunting is carried out on land only with the prior permission of the occupier of the land or, in the case of unoccupied land, a person to whom it belongs.
- (3) The second condition is that any inspector appointed by a prescribed animal welfare body is permitted on request to accompany individuals hunting in reliance on the registration for the purpose of inspecting their hunting. 5
- (4) The third condition is that there is insurance in place in respect of loss or damage caused to persons other than those registered in the course of hunting in reliance on the registration.
- (5) The fourth condition is that – 10
 - (a) on each occasion on which hunting is carried out in reliance on the registration a record is made of the identity of each individual (whether registered or not) who participates in the hunt, and
 - (b) a record made under paragraph (a) is retained throughout the duration of the registration. 15
- (6) The fifth condition is that reasonable steps are taken to exclude from participation in hunting carried out in reliance on the registration any individual whom any of the registered individuals knows or suspects –
 - (a) to have had his registration under this Part cancelled, or to have been removed from a group registration, within the previous period of three years, 20
 - (b) to be subject to a disqualification order under section 42, or
 - (c) to have been convicted of an offence under this Act, the Protection of Animals Act 1911 (c. 27), the Protection of Animals (Scotland) Act 1912 (c. 14), the Wild Mammals (Protection) Act 1996 (c. 3), the Protection of Wild Mammals (Scotland) Act 2002 (asp 6), or under section 2 of the Protection of Badgers Act 1992 (c. 51). 25

28 Amendment of automatic conditions

The Secretary of State may by order amend section 26 or 27 so as to –

- (a) add a condition; 30
- (b) remove a condition;
- (c) vary a condition.

29 Variation of non-automatic condition

- (1) An individual who is the subject of an individual registration may apply to the registrar for variation of the conditions of the registration (other than a condition imposed by section 26). 35
- (2) A group of individuals who are the subject of a group registration may apply to the registrar for variation of the conditions of the registration (other than a condition imposed by section 27).
- (3) An application must – 40
 - (a) be in the prescribed form,
 - (b) contain the prescribed information,
 - (c) be accompanied by the prescribed documents (if any), and
 - (d) be accompanied by the prescribed fee.

- (4) Section 16 shall apply to an application under this section as if –
- (a) a reference to the hunting proposed to be carried out were a reference to hunting carried out in reliance on the registration under the conditions as proposed to be varied, and
 - (b) the assumption in subsection (7) were an assumption about compliance with the conditions of registration as proposed to be varied. 5
- (5) In this section “prescribed” means prescribed by regulations made by the Secretary of State.

30 Appeal to Tribunal

- (1) Where the registrar grants or refuses an application under section 29 a party to the application may appeal to the Tribunal. 10
- (2) The Tribunal shall give the appellant or appellants and the prescribed animal welfare bodies an opportunity to make representations.
- (3) On determining the appeal the Tribunal may –
- (a) give a direction to the registrar; 15
 - (b) make any order that it thinks appropriate.
- (4) A person who is party to proceedings under this section may appeal on a point of law to the High Court.
- (5) An appeal under subsection (4) may be brought only with the permission of –
- (a) the Tribunal, or 20
 - (b) if the Tribunal refuses permission, the High Court.

Variation and cancellation of registration

31 Group registration: addition or replacement

- (1) An individual may apply to the registrar to be added to a group registration –
- (a) as an additional registered individual, or 25
 - (b) in substitution for an individual registered.
- (2) The applicant must be at least 16 years of age.
- (3) An application under this section must –
- (a) be in the prescribed form,
 - (b) contain the prescribed information, 30
 - (c) be accompanied by the prescribed documents (if any), and
 - (d) be accompanied by the prescribed fee.
- (4) An application under this section must be accompanied by the written consent of more than half of the individuals registered under the group registration.
- (5) In the case of an application to replace an individual the consents under subsection (4) must include his consent. 35
- (6) The registrar shall grant an application under this section unless he thinks that the applicant is not a fit and proper person to be registered by reason of –
- (a) a conviction for an offence under this Act,

- (b) a conviction for an offence under the Protection of Animals Act 1911 (c. 27),
 - (c) conviction for an offence under the Protection of Animals (Scotland) Act 1912 (c. 14),
 - (d) conviction for an offence under section 2 of the Protection of Badgers Act 1992 (c. 51),
 - (e) conviction for an offence under the Wild Mammals (Protection) Act 1996 (c. 3),
 - (f) conviction for an offence under the Protection of Wild Mammals (Scotland) Act 2002 (asp 6), or
 - (g) matters relating to the cancellation of the applicant’s registration or his removal from a group registration.
- (7) An addition to or substitution in a group registration shall not affect the duration of the registration.
- (8) Where an application under this section to add an individual to a group registration is refused no new application may be made to add the individual to a group registration during the period of six months beginning with the date of the refusal.
- (9) But the registrar may permit an application despite subsection (8) by reason of a material change of circumstances.
- (10) In this section “prescribed” means prescribed by regulations made by the Secretary of State.

32 De-registration: conviction of offence

- (1) The registrar may cancel an individual registration, or remove an individual from a group registration, if the individual is convicted of an offence under –
- (a) this Act,
 - (b) the Protection of Animals Act 1911,
 - (c) the Protection of Animals (Scotland) Act 1912,
 - (d) section 2 of the Protection of Badgers Act 1992,
 - (e) the Wild Mammals (Protection) Act 1996,
 - (f) the Protection of Wild Mammals (Scotland) Act 2002 (asp 6).
- (2) The registrar shall notify an individual in respect of whom the registrar has taken action under subsection (1).

33 De-registration: general

- (1) Any of the prescribed animal welfare bodies may apply to the registrar for a registration to be cancelled, or for an individual to be removed from a group registration, on the grounds that –
- (a) a condition of the registration has been breached, or
 - (b) the tests specified in section 7 are no longer satisfied in respect of the hunting to which the registration relates.
- (2) The occupier of land, or in the case of unoccupied land a person to whom it belongs, may apply to the registrar for a registration to be cancelled, or for an individual to be removed from a group registration, on the grounds that trespass to the land has been committed in the course of hunting carried out in reliance on the registration.

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- (3) An application under this section must –
- (a) be in the prescribed form,
 - (b) contain the prescribed information,
 - (c) be accompanied by the prescribed documents (if any), and
 - (d) be accompanied by the prescribed fee. 5
- (4) On an application under this section the following are entitled to make written representations to the registrar –
- (a) the applicant,
 - (b) the relevant registered individual or individuals, and
 - (c) in the case of an application under subsection (2), any person to whom the land belongs. 10
- (5) For the purposes of an application under this section the registrar may require the production of a record made pursuant to section 27(5).
- (6) On an application under this section the registrar may –
- (a) cancel a registration or remove an individual from a group registration (whether on the grounds alleged in the application, on grounds that could have been alleged or on the grounds that a record required under subsection (5) was not produced); 15
 - (b) with the consent of the individual or individuals registered, vary the conditions of registration. 20
- (7) An application under subsection (2) is without prejudice to a person’s right to seek another remedy in respect of trespass.
- (8) In this section “prescribed” means prescribed by regulations made by the Secretary of State.
- 34 Appeal to Tribunal 25**
- (1) Where the registrar refuses an application under section 31 the applicant may appeal to the Tribunal.
- (2) Where the registrar takes action in respect of an individual under section 32 the individual may appeal to the Tribunal.
- (3) Where the registrar grants or refuses an application under section 33 a party to the application may appeal to the Tribunal. 30
- (4) The Tribunal shall give the following an opportunity to make representations –
- (a) the appellant or appellants,
 - (b) the relevant registered individual or individuals (if not the appellant or appellants), 35
 - (c) the prescribed animal welfare bodies, and
 - (d) in the case of an appeal in respect of an application under section 33(2), a person to whom the relevant land belongs.
- (5) For the purposes of an appeal under this section the Tribunal may require the production of a record made pursuant to section 27(5). 40
- (6) On determining the appeal the Tribunal may –
- (a) give a direction to the registrar;
 - (b) make any order that it thinks appropriate.

- (7) A person who is party to proceedings under this section may appeal on a point of law to the High Court.
- (8) An appeal under subsection (7) may be brought only with the permission of—
- (a) the Tribunal, or
 - (b) if the Tribunal refuses permission, the High Court.

5

35 De-registration: saving

- (1) Cancellation of a registration under this Part shall be without prejudice to the lawfulness of anything done in reliance on it while it had effect.
- (2) The removal of an individual from a group registration shall be without prejudice to the lawfulness of anything done in reliance on his inclusion while he was included.

10

Offences

36 False information

A person commits an offence if—

- (a) he makes a false statement or gives false information in an application under this Part, and
- (b) he does not believe the statement or information to be true.

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37 Group registration: failure to keep records

- (1) In the case of a group registration each registered individual commits an offence if he fails—
- (a) to make a record of each occasion on which he hunts in purported reliance on the registration,
 - (b) when hunting in purported reliance on the registration, to make a record of the identity of each individual participating in the hunting, or
 - (c) to retain throughout the duration of the registration each record made by him under paragraph (a) or (b).
- (2) It is a defence for an individual charged with an offence under this section to show that he reasonably believed that a record was made or retained by another registered individual.

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PART 3

30

ENFORCEMENT

38 Penalty

- (1) A person guilty of an offence under this Act shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (2) Where a magistrates' court convicts a person of an offence under this Act the clerk of the court (within the meaning of section 141 of the Magistrates' Courts Act 1980 (c. 43)) shall notify the registrar.

35

39 Arrest

A constable without a warrant may arrest a person whom he reasonably suspects –

- (a) to have committed an offence under section 1 or 6(1)(a), (b) or (2),
- (b) to be committing an offence under any of those provisions, or
- (c) to be about to commit an offence under any of those provisions.

40 Search and seizure

- (1) This section applies where a constable reasonably suspects that a person (“the suspect”) is committing or has committed an offence under Part 1 of this Act.
- (2) If the constable reasonably believes that evidence of the offence is likely to be found on the suspect, the constable may stop the suspect and search him. 10
- (3) If the constable reasonably believes that evidence of the offence is likely to be found on or in a vehicle, animal or other thing of which the suspect appears to be in possession or control, the constable may stop and search the vehicle, animal or other thing. 15
- (4) A constable may seize and detain a vehicle, animal or other thing if he reasonably believes that –
 - (a) it may be used as evidence in criminal proceedings for an offence under Part 1 of this Act, or
 - (b) it may be made the subject of an order under section 41. 20
- (5) For the purposes of exercising a power under this section a constable may enter –
 - (a) land;
 - (b) premises other than a dwelling;
 - (c) a vehicle. 25
- (6) The exercise of a power under this section does not require a warrant.

41 Forfeiture

- (1) A court which convicts a person of an offence under Part 1 of this Act may order the forfeiture of any dog or hunting article which –
 - (a) was used in the commission of the offence, or
 - (b) was in the possession of the person convicted at the time of his arrest. 30
- (2) A court which convicts a person of an offence under Part 1 of this Act may order the forfeiture of any vehicle which was used in the commission of the offence.
- (3) In subsection (1) “hunting article” means anything designed or adapted for use in connection with –
 - (a) hunting a wild mammal, or
 - (b) hare coursing. 35
- (4) A forfeiture order –
 - (a) may include such provision about the treatment of the dog, vehicle or article forfeited as the court thinks appropriate, and 40

-
- (b) subject to provision made under paragraph (a), shall be treated as requiring any person who is in possession of the dog, vehicle or article to surrender it to a constable as soon as is reasonably practicable.
- (5) Where a forfeited dog, vehicle or article is retained by or surrendered to a constable, the police force of which the constable is a member shall ensure that such arrangements are made for its destruction or disposal – 5
- (a) as are specified in the forfeiture order, or
- (b) where no arrangements are specified in the order, as seem to the police force to be appropriate.
- (6) The court which makes a forfeiture order may order the return of the forfeited dog, vehicle or article on an application made – 10
- (a) by a person who claims to have an interest in the dog, vehicle or article (other than the person on whose conviction the order was made), and
- (b) before the dog, vehicle or article has been destroyed or finally disposed of under subsection (5). 15
- (7) A person commits an offence if he fails to –
- (a) comply with a forfeiture order, or
- (b) co-operate with a step taken for the purpose of giving effect to a forfeiture order.
- 42 Disqualification for registration 20**
- (1) A court which convicts a person of an offence under Part 1 of this Act may make an order (a “disqualification order”) that he may not –
- (a) be registered under Part 2 of this Act, or
- (b) hunt in reliance on section 2(2) or (3).
- (2) A disqualification order shall specify the duration of the disqualification (which may be for the person’s life). 25
- (3) The registrar –
- (a) shall not register a person who is subject to a disqualification order,
- (b) shall cancel a person’s registration if he is registered when a disqualification order takes effect, and 30
- (c) shall cancel a person’s registration if he was subject to a disqualification order when the registration took effect.
- (4) The subject of a disqualification order may apply for an order terminating it.
- (5) An application under subsection (4) for the termination of a disqualification order may be made only if – 35
- (a) a year has elapsed since the date of the order, and
- (b) a year has elapsed since the date of the determination of any previous application under subsection (4) in respect of the order.
- (6) An application under subsection (4) must be made to – 40
- (a) the magistrates’ court which made the disqualification order, or
- (b) a magistrates’ court for the same petty sessions area.
- (7) On hearing an application under subsection (4) a magistrates’ court may order the applicant to pay costs.

- (8) Where a magistrates' court makes or terminates a disqualification order the clerk of the court (within the meaning of section 141 of the Magistrates' Courts Act 1980) shall notify the registrar.
- (9) In this section a reference to a person's registration includes a reference to his inclusion in a group registration. 5

43 Offence by body corporate

- (1) This section applies where an offence under this Act is committed by a body corporate with the consent or connivance of an officer of the body.
- (2) The officer, as well as the body, shall be guilty of the offence.
- (3) In subsection (1) a reference to an officer of a body corporate includes a reference to – 10
- (a) a director, manager or secretary,
 - (b) a person purporting to act as a director, manager or secretary, and
 - (c) if the affairs of the body are managed by its members, a member.

PART 4 15

GENERAL

44 Interpretation

- (1) In this Act "wild mammal" includes, in particular – 20
- (a) a wild mammal which has been bred or tamed for any purpose,
 - (b) a wild mammal which is in captivity or confinement,
 - (c) a wild mammal which has escaped or been released from captivity or confinement, and
 - (d) any mammal which is living wild.
- (2) For the purposes of this Act a reference to a person hunting a wild mammal with a dog includes, in particular, any case where – 25
- (a) a person engages or participates in the pursuit of a wild mammal, and
 - (b) one or more dogs are employed in that pursuit (whether or not by him and whether or not under his control or direction); or
 - (c) a person engages or participates in a hare coursing event.
- (3) For the purposes of this Act land belongs to a person if he – 30
- (a) owns an interest in it,
 - (b) manages or controls it, or
 - (c) occupies it.
- (4) For the purposes of this Act a dog belongs to a person if he – 35
- (a) owns it,
 - (b) is in charge of it, or
 - (c) has control of it.
- (5) For the purposes of this Act an application to the registrar shall be treated as finally determined when – 40
- (a) the registrar has determined the application (or it has been withdrawn or abandoned), and

-
- (b) an appeal to the Tribunal has been determined by the Tribunal (or withdrawn or abandoned) or can no longer be brought (ignoring the possibility of an appeal out of time with permission).
- (6) In this Act a reference to a party to proceedings before the registrar or the Tribunal includes a reference to a person who makes representations to the registrar or Tribunal about the proceedings. 5
- 45 Crown application**
- This Act—
- (a) binds the Crown, and
- (b) applies to anything done on or in respect of land irrespective of whether it belongs to or is used for the purposes of the Crown or a Duchy. 10
- 46 Amendments and repeals**
- (1) Schedule 3 (consequential amendments) shall have effect.
- (2) The enactments listed in Schedule 4 are hereby repealed to the extent specified. 15
- 47 Subordinate legislation**
- (1) An order, regulations or rules made by the Secretary of State or the Lord Chancellor under this Act shall be made by statutory instrument.
- (2) An order of the Secretary of State under this Act may not be made unless a draft has been laid before and approved by resolution of each House of Parliament. 20
- (3) Regulations and rules under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) An order, regulations or rules made by the Secretary of State or the Lord Chancellor under this Act—
- (a) may make provision which applies generally or only in specified circumstances or for specified purposes, 25
- (b) may make different provision for different circumstances or purposes, and
- (c) may make transitional, consequential and incidental provision.
- 48 Money** 30
- (1) Any expenditure incurred by a Minister of the Crown in connection with this Act shall be paid out of money provided by Parliament.
- (2) Money received by the registrar by way of fees shall be paid into the Consolidated Fund.
- 49 Commencement** 35
- This Act shall come into force at the end of the period of three months beginning with the date on which it is passed.

50 Short title

This Act may be cited as the Hunting Act 2004.

51 Extent

This Act shall extend only to England and Wales.

SCHEDULES

SCHEDULE 1

Section 3

EXEMPT HUNTING

Stalking and flushing out

- | | | |
|---|---|----|
| 1 | (1) Stalking a wild mammal, or flushing it out of cover, is exempt hunting if the conditions in this paragraph are satisfied. | 5 |
| | (2) The first condition is that the stalking or flushing out is undertaken for the purpose of— | |
| | (a) preventing or reducing serious damage which the wild mammal would otherwise cause— | 10 |
| | (i) to livestock, | |
| | (ii) to game birds or wild birds (within the meaning of section 27 of the Wildlife and Countryside Act 1981 (c. 69)), | |
| | (iii) to food for livestock, | |
| | (iv) to crops (including vegetables and fruit), | 15 |
| | (v) to growing timber, | |
| | (vi) to fisheries, | |
| | (vii) to other property, or | |
| | (viii) to the biological diversity of an area (within the meaning of the United Nations Environmental Programme Convention on Biological Diversity of 1992), | 20 |
| | (b) obtaining meat to be used for human or animal consumption, or | |
| | (c) participation in a field trial. | |
| | (3) In subparagraph (2)(c) “field trial” means a competition (other than a hare coursing event within the meaning of section 6) in which dogs— | 25 |
| | (a) flush animals out of cover or retrieve animals that have been shot (or both), and | |
| | (b) are assessed as to their likely usefulness in connection with shooting. | |
| | (4) The second condition is that the stalking or flushing out takes place on land— | 30 |
| | (a) which belongs to the person doing the stalking or flushing out, or | |
| | (b) which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs. | |
| | (5) The third condition is that the stalking or flushing out does not involve the use of more than two dogs. | 35 |
| | (6) The fourth condition is that the stalking or flushing out does not involve the use of a dog below ground otherwise than in accordance with paragraph 2 below. | |

- (7) The fifth condition is that—
- (a) reasonable steps are taken for the purpose of ensuring that as soon as possible after being found or flushed out the wild mammal is shot dead by a competent person, and
 - (b) in particular, each dog used in the stalking or flushing out is kept under sufficiently close control to ensure that it does not prevent or obstruct achievement of the objective in paragraph (a). 5

Use of dogs below ground to protect birds for shooting

- 2 (1) The use of a dog below ground in the course of stalking or flushing out is in accordance with this paragraph if the conditions in this paragraph are satisfied. 10
- (2) The first condition is that the stalking or flushing out is undertaken for the purpose of preventing or reducing serious damage to game birds or wild birds (within the meaning of section 27 of the Wildlife and Countryside Act 1981 (c. 69)) which a person is keeping or preserving for the purpose of their being shot. 15
- (3) The second condition is that the person doing the stalking or flushing out—
- (a) has with him written evidence—
 - (i) that the land on which the stalking or flushing out takes place belongs to him, or 20
 - (ii) that he has been given permission to use that land for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs, and
 - (b) makes the evidence immediately available for inspection by a constable who asks to see it. 25
- (4) The third condition is that the stalking or flushing out does not involve the use of more than one dog below ground at any one time.
- (5) In so far as stalking or flushing out is undertaken with the use of a dog below ground in accordance with this paragraph, paragraph 1 shall have effect as if for the condition in paragraph 1(7) there were substituted the condition that— 30
- (a) reasonable steps are taken for the purpose of ensuring that as soon as possible after being found the wild mammal is flushed out from below ground,
 - (b) reasonable steps are taken for the purpose of ensuring that as soon as possible after being flushed out from below ground the wild mammal is shot dead by a competent person, 35
 - (c) in particular, the dog is brought under sufficiently close control to ensure that it does not prevent or obstruct achievement of the objective in paragraph (b), 40
 - (d) reasonable steps are taken for the purpose of preventing injury to the dog, and
 - (e) the manner in which the dog is used complies with any code of practice which is issued or approved for the purpose of this paragraph by the Secretary of State. 45

Rats

- 3 The hunting of rats is exempt if it takes place on land—

- (a) which belongs to the hunter, or
- (b) which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs.

Rabbits 5

- 4 The hunting of rabbits is exempt if it takes place on land –
- (a) which belongs to the hunter, or
 - (b) which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs. 10

Retrieval of hares

- 5 The hunting of a hare which has been shot is exempt if it takes place on land –
- (a) which belongs to the hunter, or
 - (b) which he has been given permission to use for the purpose of hunting hares by the occupier or, in the case of unoccupied land, by a person to whom it belongs. 15

Falconry

- 6 Flushing a wild mammal from cover is exempt hunting if undertaken –
- (a) for the purpose of enabling a bird of prey to hunt the wild mammal, and 20
 - (b) on land which belongs to the hunter or which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs.

Recapture of wild mammal 25

- 7 (1) The hunting of a wild mammal which has escaped or been released from captivity or confinement is exempt if the conditions in this paragraph are satisfied.
- (2) The first condition is that the hunting takes place –
- (a) on land which belongs to the hunter, 30
 - (b) on land which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs, or
 - (c) with the authority of a constable.
- (3) The second condition is that – 35
- (a) reasonable steps are taken for the purpose of ensuring that as soon as possible after being found the wild mammal is recaptured or shot dead by a competent person, and
 - (b) in particular, each dog used in the hunt is kept under sufficiently close control to ensure that it does not prevent or obstruct achievement of the objective in paragraph (a). 40
- (4) The third condition is that the wild mammal –
- (a) was not released for the purpose of being hunted, and

(b) was not, for that purpose, permitted to escape.

Rescue of wild mammal

- 8 (1) The hunting of a wild mammal is exempt if the conditions in this paragraph are satisfied.
- (2) The first condition is that the hunter reasonably believes that the wild mammal is or may be orphaned or injured. 5
- (3) The second condition is that the hunting is undertaken for the purpose of relieving the wild mammal's suffering.
- (4) The third condition is that the hunting does not involve the use of more than two dogs. 10
- (5) The fourth condition is that the hunting does not involve the use of a dog below ground except to despatch orphaned cubs.
- (6) The fifth condition is that the hunting takes place –
- (a) on land which belongs to the hunter,
- (b) on land which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs, or 15
- (c) with the authority of a constable.
- (7) The sixth condition is that –
- (a) 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, and 20
- (b) in particular, each dog used in the hunt is kept under sufficiently close control to ensure that it does not prevent or obstruct achievement of the objective in paragraph (a). 25
- (8) The seventh condition is that the wild mammal was not harmed for the purpose of enabling it to be hunted in reliance upon this paragraph.

Research and observation

- 9 (1) The hunting of a wild mammal is exempt if the conditions in this paragraph are satisfied. 30
- (2) The first condition is that the hunting is undertaken for the purpose of or in connection with the observation or study of the wild mammal.
- (3) The second condition is that the hunting does not involve the use of more than two dogs.
- (4) The third condition is that the hunting does not involve the use of a dog below ground. 35
- (5) The fourth condition is that the hunting takes place on land –
- (a) which belongs to the hunter, or
- (b) which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs. 40
- (6) The fifth condition is that each dog used in the hunt is kept under sufficiently close control to ensure that it does not injure the wild mammal.

SCHEDULE 2

Section 9

THE HUNTING TRIBUNAL

President and deputy

- 1 (1) The Lord Chancellor shall appoint a President of the Tribunal.
- (2) A person may be appointed as President only if – 5
 - (a) he has a ten year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41),
 - (b) he is an advocate or solicitor in Scotland of at least ten years' standing, or
 - (c) he is a member of the Bar of Northern Ireland, or a solicitor of the Supreme Court of Northern Ireland, of at least ten years' standing. 10
- 2 (1) The Lord Chancellor may appoint a member of the panel of chairmen of the Tribunal as deputy President of the Tribunal.
- (2) The deputy President –
 - (a) may act for the President if he is unable to act or unavailable or during a vacancy in the office of President, and 15
 - (b) shall perform such other functions as the President may assign or delegate to him.
- 3 The Lord Chancellor may authorise a member of the panel of chairmen of the Tribunal – 20
 - (a) to act for the President if he and the deputy President (if there is one) are unable to act or unavailable;
 - (b) to act for the President during a vacancy in that office if there is no deputy President;
 - (c) to act for the deputy President if he is unable to act or unavailable. 25

Chairmen

- 4 (1) The Lord Chancellor shall appoint persons to a panel of chairmen of the Tribunal.
- (2) A person may be appointed under this paragraph only if –
 - (a) he has a seven year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990, 30
 - (b) he is an advocate or solicitor in Scotland of at least seven years' standing, or
 - (c) he is a member of the Bar of Northern Ireland, or a solicitor of the Supreme Court of Northern Ireland, of at least seven years' standing. 35

Members

- 5 (1) The Lord Chancellor shall appoint persons to a panel of members of the Tribunal.
- (2) A person may be appointed under this paragraph only if he –
 - (a) is on the general list of veterinary surgeons (within the meaning of section 2 of the Veterinary Surgeons Act 1966 (c. 36)), or 40

- (b) has experience relating to the welfare of animals or the management of land which in the Lord Chancellor’s opinion makes it appropriate to appoint him as a member of the Tribunal.

Tenure

- 6 (1) A person appointed under any of paragraphs 1 to 5 shall hold and vacate office in accordance with the terms of his appointment (subject to this paragraph). 5
- (2) A person appointed under any of paragraphs 1 to 5 may resign by notice in writing to the Lord Chancellor.
- (3) The Lord Chancellor may dismiss a person appointed under any of paragraphs 1 to 5— 10
- (a) on the grounds that he is unable or unwilling to perform his functions, or
- (b) for misbehaviour.

Proceedings

- 7 The Tribunal shall sit in such places and at such times as the Lord Chancellor shall determine (and may hold more than one sitting at a time). 15
- 8 (1) The President shall make arrangements for determining which of the persons appointed under paragraphs 1 to 5 shall constitute the Tribunal at each sitting. 20
- (2) The arrangements shall, in particular –
- (a) ensure that at each sitting the Tribunal consists of or includes the President or a member of the panel of chairmen, and
- (b) make provision for replacement in a case where the Tribunal consists of a single member who becomes unable to act. 25
- 9 Decisions of the Tribunal may be taken by majority vote.
- 10 The President may give directions about the practice and procedure of the Tribunal.
- 11 Rules under section 9 may, in particular, make provision – 30
- (a) about representation of parties;
- (b) about withdrawal of proceedings;
- (c) about the admission of members of the public to proceedings;
- (d) about recording and promulgating decisions;
- (e) by reference to a direction given or to be given by the President.

Evidence

- 12 The Tribunal – 35
- (a) may call an expert witness to give evidence on a matter of fact arising in proceedings before it, and
- (b) may have regard to advice provided to it under section 11.

Costs

- 13 If the Tribunal thinks that a party to proceedings before it has acted unreasonably it may order the party to pay all or part of the costs incurred by another party to the proceedings.

Council on Tribunals

5

- 14 In Part I of Schedule 1 to the Tribunals and Inquiries Act 1992 (c. 53) (tribunals under general supervision of Council) the following shall be inserted before paragraph 22 –

“Hunting

21B. The Hunting Tribunal established by section 9 of the Hunting Act 2004.”

10

Money

- 15 The Lord Chancellor –
- (a) may pay sums by way of remuneration, allowances and expenses to a person appointed under any of paragraphs 1 to 5,
 - (b) may pay sums by way of or in respect of a pension to a person appointed under any of paragraphs 1 to 5,
 - (c) may make staff and other facilities available to the Tribunal, and
 - (d) may pay sums by way of allowances and expenses to an expert witness called under paragraph 12.

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SCHEDULE 3

Section 46

CONSEQUENTIAL AMENDMENTS

Game Act 1831 (c. 32)

- 1 In section 35 of the Game Act 1831 (provision about trespassers: exceptions) the following words shall cease to have effect: “to any person hunting or coursing upon any lands with hounds or greyhounds, and being in fresh pursuit of any deer, hare or fox already started upon any other land, nor”.

25

Game Licences Act 1860 (c. 90)

- 2 In section 5 of the Game Licences Act 1860 (exceptions) exceptions 3 and 4 (hares and deer) shall cease to have effect.

30

Protection of Animals Act 1911 (c. 27)

- 3 In section 1(3)(b) of the Protection of Animals Act 1911 (offence of cruelty: exceptions) a reference to coursing or hunting shall not include a reference to –
- (a) participation in a hare coursing event (within the meaning of section 6 of this Act), or

35

- (b) the coursing or hunting of a wild mammal with a dog (within the meaning of this Act).

Protection of Badgers Act 1992 (c. 51)

- 4 Section 8(4) to (9) of the Protection of Badgers Act 1992 (exception for hunting) shall cease to have effect. 5

Wild Mammals (Protection) Act 1996 (c. 3)

- 5 For the purposes of section 2 of the Wild Mammals (Protection) Act 1996 (offences: exceptions) the hunting of a wild mammal with a dog (within the meaning of this Act) shall be treated as lawful if and only if it is registered or exempt hunting within the meaning of this Act. 10

SCHEDULE 4

Section 46

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
The Game Act 1831 (c. 32)	In section 35, the words “to any person hunting or coursing upon any lands with hounds or greyhounds, and being in fresh pursuit of any deer, hare or fox already started upon any other land, nor”.	15
The Game Licences Act 1860 (c. 90)	In section 5, exceptions 3 and 4.	20
The Protection of Badgers Act 1992 (c. 51)	Section 8(4) to (9).	

Hunting Bill

A

B I L L

[AS AMENDED IN COMMITTEE]

To make provision about hunting wild mammals with dogs; to prohibit unregistered hare coursing; and for connected purposes.

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HL Bill 123

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