

In accordance with section 4(2) of the Act, the Secretary of State has laid a draft of this Order before Parliament, with a statement as required by section 8(5) of that Act.

The draft has been approved by a resolution of each House of Parliament.

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Regulatory Reform (Deer) (England and Wales) Order 2007 and shall come into force on 1st October 2007.

(2) This Order extends to England and Wales only.

(3) In this Order “the 1991 Act” means the Deer Act 1991(a).

Use of prohibited weapons and other articles

2. In section 4 of the 1991 Act (use of prohibited weapons and other articles) , in subsection (4)(a) after “deer,”, insert “when the vehicle is moving or when its engine is running.”.

General exceptions to certain provisions of the Deer Act 1991

3.—(1) Section 6 of the 1991 Act (general exceptions to certain provisions of this Act) is amended as follows.

(2) After subsection (2), insert—

“(2A) A person shall not be guilty of an offence under section 2 or section 3 above by reason of taking or killing a deer that he reasonably believes—

- (a) has been deprived in any way (other than by an unlawful taking or killing by that person) of a female deer on which it was dependent; or
- (b) is about to be deprived, by death from disease or a lawful taking or killing, of a female deer on which it is dependent.”.

(3) For subsections (3) and (4), substitute—

“(3) A person shall not be guilty of an offence under section 4(1) or (2) above by reason of the use of any reasonable means for the purpose of killing any deer if he reasonably believes that the deer has been so seriously injured, otherwise than by his unlawful act, or is so seriously diseased, that to kill it is an act of mercy.

(4) In subsection (3) above, “any reasonable means” means any method of killing a deer that can reasonably be expected to result in rapid loss of consciousness and death and which is appropriate in all the circumstances (including in particular what the deer is doing, its size, its distance from the closest position safely attainable by the person attempting to kill the deer and its position in relation to vegetative cover).”.

(4) At the end, insert—

“(6) A person shall not be guilty of an offence under section 4(2)(a) above if he uses for the purpose of taking or killing or injuring any Chinese water deer (*Hydropotes inermis*), muntjac deer (*Muntiacus reevesi*) or roe deer (*Capreolus capreolus*)—

- (a) a rifle having a calibre of not less than .220 inches and a muzzle energy of not less than 1,356 joules (1000 foot pounds), and
- (b) a soft-nosed or hollow-nosed bullet weighing not less than 3.24 grammes (50 grains).”.

(a) 1991 c. 54.

Licences

4.—(1) Section 8 of the 1991 Act (exceptions for persons licensed by Natural England or the Countryside Council for Wales)(a) is amended as follows.

(2) In the heading, after “Natural England” (b) insert “, the National Assembly for Wales,”.

(3) After subsection (3), insert—

“(3A) A licence may be granted to any person by—

- (a) Natural England, in relation to any land in England, or
- (b) the National Assembly for Wales, in relation to any land in Wales,

exempting that person from section 2 above in relation to any species and description of deer.

(3B) A licence may be granted under subsection (3A) above for the purpose of—

- (a) preserving public health or public safety, or
- (b) conserving the natural heritage.

(3C) Before granting a licence under subsection (3A) above in relation to any land the licensor must be satisfied that—

- (a) in the case of a licence required for the purpose of preserving public health or public safety, there is a serious risk of deer of the species and description to which the application relates putting public health or public safety at risk;
- (b) in the case of a licence required for the purpose of conserving the natural heritage, there is a serious risk of deer of the species and description to which the application relates causing deterioration of the natural heritage;
- (c) to achieve the purpose in question there is no satisfactory alternative to taking and killing the deer of the species and description to which the application relates during the close season prescribed by Schedule 1 to this Act;
- (d) the applicant has a right of entry to the land for the purpose of taking or killing deer under the licence; and
- (e) if the licence is to relate to red, roe or fallow deer, the taking or killing to be authorised by the licence will not compromise the ability of that species to maintain the population of deer in question on a long-term basis within its natural range in the numbers which exist after the taking or killing has taken place.

(3D) A licence may be granted to any person by—

- (a) Natural England in relation to any land in England, or
- (b) the National Assembly for Wales, in relation to any land in Wales,

exempting that person from section 3 above in relation to any species and description of deer.

(3E) A licence may be granted under subsection (3D) above for the purpose of—

- (a) preserving public health or public safety,
- (b) conserving the natural heritage, or
- (c) preventing serious damage to property.

(3F) Before granting a licence under subsection (3D) above in relation to any land the licensor must be satisfied that—

(a) As amended by the Countryside and Rights of Way Act (2000 c.37), section 73(4), Schedule 8, paragraph 1(o), which substituted “English Nature” for “Nature Conservancy Council for England” and then further amended by the Natural Environment and Rural Communities Act 2006 (c. 16), section 105(1), Schedule 11, Part 1, paragraph 128(1), (2), which further substituted “Natural England” for “English Nature”.

(b) As amended by the Natural Environment and Rural Communities Act 2006, section 105(1), Schedule 11, Part 1, paragraph 128(1), (3), which substituted “Natural England” for the “Nature Conservancy Council for England” in the heading.

- (a) in the case of a licence required for the purpose of preserving public health or public safety, there is a serious risk of deer of the species and description to which the application relates putting public health or public safety at risk;
- (b) in the case of a licence required for the purpose of conserving the natural heritage, there is a serious risk of deer of the species and description to which the application relates causing deterioration of the natural heritage;
- (c) in the case of a licence required for the purpose of preventing serious damage to property, property on the land has been seriously damaged in the year preceding the licence application;
- (d) to achieve the purpose in question there is no satisfactory alternative to taking and killing the deer of the species and description to which the application relates during the close season prescribed by Schedule 1 to this Act;
- (e) the applicant has a right of entry to the land for the purpose of taking or killing deer under the licence; and
- (f) if the licence is to relate to red, roe or fallow deer, the taking or killing to be authorised by the licence will not compromise the ability of that species to maintain the population of deer in question on a long-term basis within its natural range in the numbers which exist after the taking or killing has taken place.

(3G) A licence under subsection (3A) or (3D) above must state—

- (a) the purpose for which it is granted;
- (b) the land to which it relates;
- (c) the species or descriptions of deer to which it relates;
- (d) the method by which the licensee may take or kill deer; and
- (e) the period, not exceeding two years, for which it is valid.

(3H) Natural England and the National Assembly for Wales may charge fees for the consideration of applications for licences under subsections (3A) and (3D) above.”.

(4) In subsection (4)—

- (a) for the words from “subsection (1)” to “Wales”, substitute “this section may be revoked at any time by the licensor”; and
- (b) for “either of those subsections”, substitute “this section”.

(5) In subsection (5), for “subsection (1) or subsection (2)”, substitute “this section”.

(6) At the end, add—

“(6) In this section, “the natural heritage” means flora and fauna, geological or physiographical features or natural beauty and amenity of the countryside.”.

Close seasons

5.—(1) For the tables in Schedule 1 to the 1991 Act (close seasons), substitute—

“CHINESE WATER DEER (*Hydropotes inermis*)

Buck	15th March to 31st October inclusive
Doe	15th March to 31st October inclusive

FALLOW DEER (*Dama dama*)

Buck	1st May to 31st July inclusive
Doe	15th March to 31st October inclusive

RED DEER (*Cervus elaphus*)

Stags	1st May to 31st July inclusive
Hinds	15th March to 31st October inclusive

RED /SIKA DEER HYBRIDS

Stags 1st May to 31st July inclusive
Hinds 15th March to 31st October inclusive

ROE DEER (*Capreolus capreolus*)

Buck 1st November to 31st March inclusive
Doe 15th March to 31st October inclusive

SIKA DEER (*Cervus nippon*)

Stags 1st May to 31st July inclusive
Hinds 15th March to 31st October inclusive”.

(2) In section 2 of the 1991 Act, omit subsections (4) and (5).

(3) In subsection (2) of section 15 of the 1991 Act(a), for “any of sections 2(4) and 4(3)”, substitute “section 4(3)”.

(4) In section 16 after the definition of “deer” insert “ “species” includes any hybrid of different species of deer”.

Subordinate provisions

6.—(1) For the purposes of section 4(3) of the Regulatory Reform Act 2001, article 4(3) and the tables set out in article 5(1) of this Order are designated as subordinate provisions.

(2) A subordinate provisions order(b) made in relation to any of the provisions mentioned in paragraph (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) The power to make such a subordinate provisions order shall be exercisable in relation to Wales by the National Assembly for Wales.

Signatory text

Address	<i>Name</i> Parliamentary Under Secretary of State
Date	Department

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 1 of the Regulatory Reform Act 2001 (2001 c. 6). It amends the Deer Act 1991 (1991 c. 54) (“the 1991 Act”) by removing certain burdens on those affected by it.

Article 2 amends section 4(4) of the 1991 Act as regards the use of mechanically propelled vehicles when shooting at deer.

Article 3 amends section 6 which is concerned with the exceptions to sections 2 to 4 of the 1991 Act. Those sections contain offences relating to the killing or taking of deer.

Article 4 amends section 8 of the 1991 Act, which is concerned with the granting of exemptions by licence by Natural England or the Countryside Council for Wales.

(a) As amended by the Regulatory Reform (Game) Order 2007 (S.I. 2007/xxx), article 6.

(b) See section 4(4) of the Regulatory Reform Act 2001.

Article 5 amends Schedule 1 to the 1991 Act, which sets out the close seasons in respect of different species of deer, and makes consequential amendments.

Article 6 designates article 4(3) and the tables in article 5(1) as subordinate provisions for the purposes of section 4(3) of the 1991 Act.

A Regulatory Impact Assessment has been prepared and placed in the library of each House of Parliament. Copies can be obtained from Defra (Wildlife Species Conservation Division), Temple Quay House (Zone 1/08a), 2 The Square, Temple Quay, Bristol, BS1 6EB.