



The Hunting Bill 2003/4 and the Parliament Acts

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The Hunting Bill 2003/4 is the latest stage in a long series of Bills since 1998. The House of Commons has voted several times to abolish hunting and the House of Lords has rejected that option. This quick note does not go into the background on hunting, which is covered by Library Research Paper 02/82. The detailed amendments to the 2002/3 B-ill are covered in another standard note SN/SC/343.

Section C of the note, briefly outlines the *Parliament Acts* procedure and considers the conditions that need to be met by the *Hunting Bill* for the procedure to be implemented. It also describes the ways in which a bill can be amended and still meet the conditions imposed by the *Parliament Acts*.

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A. Earlier Hunting Bills

Since 1949 there have been several attempts to introduce Bills to reform hunting with dogs. During the 1990s four attempts were made, culminating in July 1998 with a Private Member's Bill proposed by Michael Foster. His *Wild Mammals (Hunting with Dogs) Bill* reached the Report Stage in the House of Commons but eventually ran out of parliamentary time.

On 8 July 2000, Mike O'Brien, the Home Office Minister, introduced a new Hunting Bill. The Bill gave the Commons and the Lords three options:

- a ban on hunting
- self-regulation of hunting through an independent supervisory body
- a statutory hunt licensing authority

On 17 January 2001, the House of Commons, in a free vote, decided 387 - 174 to ban hunting with dogs and rejected the self regulation 'middle road' with a vote of 382 to 182. However the House of Lords rejected a ban (317 to 68) and instead voted in favour of self regulation by 249 to 108.¹ In addition they voted against the 'middle way' option of licensing by 202 votes to 122. The Bill was lost with the announcement of the 2001 General Election.

Following the General Election, the Rural Affairs Minister Alun Michael that there would be motions put forward in both Houses which would allow further consideration of the three options as presented in the 2000-2001 Hunting Bill, and on 18 and 19 March 2002 the three options were discussed in both Houses.² The House of Commons again supported a prohibition of hunting. However on this occasion the House of Lords supported statutory regulation through a licensing authority. On 21 March 2002, Alun Michael, the Minister of State for Rural Affairs, announced that a new Bill would be introduced after further consultation. He also stated that:

Should there be no way through and should the new Bill be frustrated in its passage rather than scrutinised and improved, the Government could not properly stand in the way of the application of the Parliament Act, which again of course would be a matter for this House.

... the Government would prefer for the Bill to proceed by debate and a search for common ground wherever possible, with conflict tempered by tolerance.

... If that process is frustrated and the Bill rejected, we would reintroduce the Bill as quickly as possible to this House. It will then be for this House and its procedures - and indeed for Mr Speaker - to determine whether the Parliament Act applies.³

¹ Research Paper 02/82

² HC Deb 18 March 2002 cc52-139; HL Deb 19 March 2002 cc1241-1344; House of Lords Library Note 2003/008

³ HC *Hansard*, 21st March 2002, col. 457

The consultation included a number of hearings hosted by the Department for Environment, Food and Rural Affairs (DEFRA) in Portcullis House on 9, 10 and 11 September 2002. The content of the hearings and the experts invited to give evidence was agreed with the three main interest groups (the Campaign for the Protection of Hunted Animals, the Countryside Alliance and the Middle Way Group). The hearings took as their starting point the findings of the Burns Committee of Inquiry into Hunting with Dogs and were chaired by the Minister of State at DEFRA, Alun Michael. The focus was on the key principles of preventing cruelty and recognising utility in the management and control of wild mammals. Materials relating to the hearings can be found on DEFRA's Hunting Hearings webpage at: <http://www.defra.gov.uk/rural/hunting/huntinghearings.htm>. Coverage is also provided in the House of Commons Library Research Paper 02/82, *The Hunting Bill*, 13 December 2002, pp. 52-58.

The Hunting Bill (HC Bill 10, 2002/03) was introduced in the House of Commons on 3 December 2002. A DEFRA press release which accompanied the publication of the Bill set out its main provisions:

The Bill aims to prevent all cruelty associated with hunting with dogs. The legislation will recognise utility and prevent cruelty by setting two evidential tests that hunters would have to meet to continue their activity. Where the evidence is incontrovertible that an activity cannot meet the tests it will be banned. Hare coursing and deer hunting fall into this category. Where the evidence is incontrovertible that an activity can meet the tests it will be exempted. Ratting and rabbiting fall into this category.

Where the evidence is less clear cut for other types of hunting, including fox hunting and mink hunting, the Bill provides an independent process with a registration procedure under which individual applications are considered on a case-by-case basis as to whether they meet the tests.

The procedure will involve applications to an independent registrar who will also give a prescribed animal welfare body the opportunity of providing evidence in relation to the application. If the Registrar judges that both the tests are met, the activity will be permitted.

Both the applicant and the animal welfare body will be able to appeal against the registrar's decision to a tribunal.

Unregistered hunting will be an offence with a penalty of up to £5,000 and disqualification from registration. Breaches of conditions, including conditions requiring the hunt quarry to be killed quickly and humanely, may also lead to deregistration. Deliberately causing unnecessary suffering during hunting or coursing may be an imprisonable offence under the Wild Mammals (Protection) Act 1996.

(DEFRA Press Release 499/02, *Hunting with Dogs – The Proposals*, 3 December 2002)

The reformed Hunting Bill had a different approach to the three options as proposed by earlier Bills. For hunting to be allowed to proceed, two evidential tests would be applied based upon utility and least suffering. A hunting activity would be allowed if it could show that the utility of the activity (e.g. in terms of livestock protection) would outweigh any suffering caused.⁴ The Bill received its Second Reading on 16 December 2002 and was considered in standing Committee between 7 January 2003 and 27 February 2003 with some twenty seven sittings. The Bill was considered on Report on the 30th June 2003.

At Report Stage, new Clause 11 was added to the Bill. The Clause, accepted with a majority of 208, effectively banned the hunting of foxes with dogs and thereby removed the option of licensed hunts.⁵ The Bill was then recommitted to a Standing Committee, as the Minister of State for Environment, Food and Rural Affairs, Alun Michael, argued that the Bill needed to be further amended to take account of the new clause. The Standing Committee further considered the Bill in two sittings on the 3rd July 2003. The Bill returned for Report on 9 July 2003 and received its Third Reading on the same day, clearing the House of Commons by 317 votes to 145.

The Bill returned to the House of Lords on 21 October 2003. Peers rejected the House of Commons plan for a total ban on hunting with dogs (with limited exemptions) and voted instead (261 to 49), for a system of regulated hunting. This regulated hunting regime would allow fox and stag hunting, as well as hare coursing. The Bill ran out of parliamentary time on 29 October 2003.

B. The Hunting Bill 2003/4

On 9 September 2004 Alun Michael, the Rural Affairs Minister, announced the Government's intention to reintroduce the Hunting Bill. He said:

The Government intends to fulfil its manifesto commitment to enable Parliament to deal with the issue of hunting with dogs.

The Government has made efforts to find a constructive way forward, based on the evidence, through the Burns Committee Report and my own work which culminated in public hearings in Portcullis House in 2002. The proposals put to the House last year would have banned hunting except where a particular activity could be proved - to the satisfaction of an independent tribunal - to be necessary for pest control and to involve less suffering than available alternatives. The House decided by a substantial majority on a free vote to go further and require a complete ban apart from a few very restricted statutory exceptions...

In addition to the Bill, I shall ask the House to agree a motion to commence the Bill's provisions in relation to hunting, but not hare-coursing events, two years after its

⁴ Hunting Bill 2002-3, Standard Note SN/SC/343, 27 February 2003

⁵ "MPs back total ban on foxhunting", *The Guardian*, 1 July 2003

enactment. Special procedures exist under the Parliament Act 1911 for changes to be made if agreed to by both Houses. This period will give those involved in hunting more than adequate time to cease the activities which are to be banned, for humane arrangements, like the dispersal or re-homing of dogs, and for re-focusing any business activities on alternatives like drag-hunting or disposal of fallen stock if they wish to do so.

These welfare considerations do not apply to hare coursing events. Violence and intimidation associated with illegal coursing events is a real and pressing problem in many areas of the countryside today. We have received many representations asking us to take firm and speedy action to enable the police to tackle these associated evils. That can only be done if the nature of the relevant offences is changed from that of trespassing to the activity of hare-coursing itself, which is a clear provision of the Bill. There can be no justification for delaying further in giving the police the powers they need to crack down on the criminals involved. So the offences in the Bill banning hare-coursing events should continue to come into force three months after the Bill is passed.⁶

The Bill is identical to that passed by the House of Commons on 10 July 2003. It prohibits the hunting of wild mammals with dogs, except where exemptions apply. All hare coursing events are specifically prohibited by the bill.

The Bill makes certain exemptions to the ban on hunting in relation to, amongst others, the stalking and flushing out of wild mammals during hunting. This includes conditions such as a maximum of two dogs being allowed to be involved in the stalking and that the wild mammal must be shot by a competent person as soon as being found. Full exemptions are found in the Hunting Bill (HC Bill 150 2003/4).

All provisions of the Bill apply to both England and Wales.

On 9 September, Peter Hain explained the Government's plan for the timetable for the Bill and the proposed delay in banning fox hunting:

May I first deal with the timetable and then deal with the specific points that the hon. Gentleman raised? I am sorry to take so much time to answer this question, but I know that the issue is very much on Members' minds. The intention next Wednesday would be to move the business motion at half-past 12. That could run till any hour—unless a closure motion is moved and you accept a closure motion earlier, Mr. Speaker. The Second Reading debate will run for five hours from half-past 12, so a vote would be expected at around half-past 5. Then the debate on the motion on the suggested amendments that the Government will be tabling early next week, to postpone commencement of the legislation in respect of hunting, will run for three hours. I accept that if other amendments to the Government's motion are tabled and are in order, they could be taken at that time too, so we would expect votes on that motion at around 8.45—certainly before 9 o'clock. Then debate on Third Reading can

⁶ HC Deb 8 September 2004 cc1239-40W

run for half an hour following a Division, and it would then be possible to send the Bill through to the House of Lords, accompanied by a message hopefully suggesting the amendments, and the Bill would then get its First Reading in the Lords probably next Thursday. That is the procedure that we have suggested.

There are three common-sense reasons for a delay in the commencement of the legislation, which I should have thought everybody would understand.

First, all of us are concerned with animal welfare, and we should all wish to do all that we can to provide time for the re-homing of dogs used in hunts or their humane dispersal if that is required. The Royal Society for the Prevention of Cruelty to Animals has offered...to help, based on its experience of re-homing greyhounds, and we hope that hunts will be able to work with it to achieve that...

Secondly—I should have thought that the House would want to understand this reason and support it—the delay in the commencement will give those involved in hunting time to cease the activities that are to be banned and to refocus any business activities on alternatives, such as drag hunting, or finding alternative employment. For example, the horse industry in the country is buoyant, with increasing activity in a variety of leisure and sporting activities.

Thirdly—this is my final point—the Government condemn the threats of illegal action by some supporters of hunting. We believe that most of those involved in hunting are law-abiding people who are prepared to respect the will of Parliament. Extra time for implementation will make it even clearer that illegal actions and threats of intimidation are totally unjustified. Of course, in the meantime, there will be a general election, and the supporters of hunting are free to vote for Conservative candidates, if that is what they want, and the opponents of hunting are free to vote for Labour candidates to ensure that the commencement date goes ahead as decided. So a general election will finally decide this matter, and the will of Parliament will be upheld.⁷

Those wishing to abolish hunting welcomed the Bill, but regretted the proposed delay of two years. Supporters of hunting, like the Countryside Alliance, condemned the Bill. Tim Yeo announced the Conservative Party's commitment:

A new Conservative government will overturn the ban on foxhunting now being promised by the Blair government. That was the clear promise delivered by Shadow Environment and Transport Secretary Tim Yeo as Labour ministers were setting out the timetable for legislation outlawing foxhunting with hounds...

Mr Yeo signalled that a delay would not deter the Conservatives from their commitment to reverse any ban on hunting. He told conservatives.com: "If Labour railroad through a Bill to ban hunting, by using the Parliament Act, we will introduce a Government Bill to reverse Labour's ban.". Mr Yeo added: "All Conservatives front and back bench will be allowed a free vote in both Houses of Parliament. The vast majority of Conservatives believe a ban is an infringement of civil liberties and damaging to the countryside."⁸

⁷ HC Deb 9 September 2004 cc865-6

⁸ Conservative Party News Release, conservatives pledge to reverse foxhunting ban, 9 September 2004 http://www.conservatives.com/news/article.cfm?obj_id=115431

The Bill was debated in the House of Commons on 15 September 2004 and was given a second reading by 356 votes to 166. During debate on the Bill Alun Michael, Rural Affairs Minister, said:

I still hope that peers will engage with the Hunting Bill this time around. If they fail to do so the only way in which the matter can be properly resolved at this stage is for the will of this house to prevail under the provision of the Parliament Act.⁹

Conservative spokesman James Gray said his party, if elected, would use government time and a free vote to attempt to repeal a ban. An amendment to the Bill to delay the fox-hunting ban to July 2006 was backed by 342 votes to 15. Alun Michael said the 18-month delay:

[...] would have the advantage of ensuring that the ban comes into force before the start of the main 2006/2007 hunting season.¹⁰

C. Procedural matters

1. Using the *Parliament Acts* to enact the *Hunting Bill 2003-04*

On 8 September 2004, Alun Michael, Minister of State in the Department for Environment, Food and Rural Affairs announced, by way of a written answer, that the Government considered that the *Parliament Acts* procedure could be used to implement the provisions of the *Hunting Bill*. He also indicated that the Government would suggest amendments to the existing Bill:

It will be matter for this House to decide, but the Government believes that the provisions of the Parliament Acts will be available if an unaltered Bill is sent to the Other Place.

In addition to the Bill, I shall ask the House to agree a motion to commence the Bill's provision in relation to hunting, but not hare-coursing events, two years after its enactment. Special procedures exist under the Parliament Act 1911 for changes to be made if agreed to by both Houses. This period will give those involved in hunting more than adequate time to cease the activities which are to be banned, for humane arrangements like the dispersal or re-homing of dogs, and for re-focusing any business activities on alternatives like drag-hunting or disposal of fallen stock if they wish to do so.¹¹

The *Parliament Acts* procedure, which allows a Bill that has not been passed by the House of Lords to be enacted if the Lords have rejected it in two successive sessions, only comes into operation if the Lords reject the Bill. Therefore at the moment the Government has

⁹ HC Deb 15 September 2004 col. 1330

¹⁰ HC Deb 15 September 2004 col. 1357

¹¹ HC Deb 8 September 2004 cc1239W-1241W

threatened to use the *Parliament Acts* procedure. If therefore the House of Lords passes the Bill, there will be no need to use this procedure.¹²

2. Conditions of the Parliament Acts procedure

a. Rejection of the Bill by the House of Lords

The *Parliament Acts* set out the procedures which are available should the House of Lords “reject” a bill; and section 2(3) of the 1911 Act states that for this purpose a bill is deemed to be rejected by the House of Lords “if it is not passed by that House either without amendment or with such amendments only as may be agreed to by both Houses”.

b. Other conditions

The *Parliament Acts* require a number of other conditions to be met before a bill that is rejected by the House of Lords can be enacted. The conditions are set out in the *Parliament Act 1911*, as amended by the *Parliament Act 1949*:

2 Restriction of the powers of the House of Lords as to Bills other than Money Bills

(1) If any Public Bill (other than a Money Bill or a Bill containing any provision to extend the maximum duration of Parliament beyond five years) is passed by the House of Commons [in two successive sessions] (whether of the same Parliament or not), and, having been sent up to the House of Lords at least one month before the end of the session, is rejected by the House of Lords in each of those sessions, that Bill shall, on its rejection [for the second time] by the House of Lords, unless the House of Commons direct to the contrary, be presented to His Majesty and become an Act of Parliament on the Royal Assent being signified thereto, notwithstanding that the House of Lords have not consented to the Bill: Provided that this provision shall not take effect unless [one year has elapsed] between the date of the second reading in the first of those sessions of the Bill in the House of Commons and the date on which it passes the House of Commons [in the second of those sessions].¹³

In the case of the *Hunting Bill*, the following conditions will have to be satisfied:

- **The Bill must be sent to the Lords at least one month before the end of Session 2002-03.** The Bill was sent to the Lords on 9 July 2003, the Session ended on 20 November 2003.
- **The Bill must be rejected by the House of Lords in Session 2002-03.** “Rejected” has a wide meaning. As the Bill failed to pass through all of its stages in the Lords, it was deemed to have been rejected.

¹² More detail on the operation and details of the previous occasions on which the *Parliament Acts* procedures have been used or been threatened to be used are described in House of Commons Library Standard Note, SN/PC/675, *The Parliament Acts*, <http://hcl1.hclibrary.parliament.uk/notes/pcc/snpc-00675.pdf>

¹³ *Halsbury's Statutes*, 4th ed, Vol 32, 1996 reissue, p 714

- The Bill must then be sent from the Commons to the Lords in the next Session of Parliament (2003-04). **One year has to elapse between the date of Second Reading in the Commons in Session 2002-03, and the date on which it is sent to the Lords in Session 2003-04.** The date of Second Reading in the Commons in Session 2002-03 was 16 December 2002.
- It must be **identical** to the Bill **sent from the Commons** in Session 2002-03. The fact that the Bill sent from the Commons in the first Session will be different from the Bill originally introduced in the Commons is not relevant to the operation of the *Parliament Acts*.
- It must be sent from the Commons to the Lords **at least one month before the end of Session 2003-04.**
- **And it must be rejected by the Lords in Session 2003-04.** “Rejected” has the same wide meaning as in Session 2002-03.
- Finally, before the Bill can receive Royal Assent, **the Speaker of the House of Commons has to certify that the conditions set out in section 2 of the Parliament Act 1911** (the points highlighted in bold text above) **have been complied with.**¹⁴

The *Hunting Bill 2002-03* met the first two criteria, so if the reintroduced Bill (*Hunting Bill 2003-04*) is rejected by the Lords for a second time, the *Parliament Acts* could be applied, as long as the House of Lords had at least one month to consider the Bill.

3. Amending a Bill: *Parliament Acts* procedure restrictions

Although the Bill that the House of Commons sends to the Lords in this session must be identical to the one sent in the last session, the House of Commons can separately suggest amendments to the Bill. Alun Michael signaled that the Government intend to do this in his statement.

Erskine May describes the procedures to be followed if amendments are suggested by the House of Commons:

Provision is also made by which the House of Commons may, on the passage of such a bill through that House in the second session, suggest further amendments without inserting them in the bill. Such amendments must be suggested before the third reading of the bill, each suggested amendment being moved as a separate resolution. Suggested amendments can be moved only if they are included among the effective orders of the day. The Speaker has ruled that suggested amendments cannot be moved without notice. If agreed to, they are sent to the House of Lords with the bill

¹⁴ Provided by the Public Bill Office, House of Lords. This was prepared for this case and therefore does not cover every aspect of the *Parliament Acts*, for which information see the rest of this note.

after it has passed the House of Commons. Any suggested amendments are to be considered by the House of Lords, and if agreed to by that House, are to be treated as amendments made by the House of Lords and agreed to by the House of Commons. It is also provided that the exercise of this power by the House of Commons shall not prejudice the position of the bill in the event of its rejection by the House of Lords.¹⁵

In addition, the House of Lords can amend the Bill in the normal way: Lords amendments would then be considered by the House of Commons as with any other bill. If the House of Commons and House of Lords cannot both agree to pass the Bill the House of Lords will be deemed to have rejected it.

If the House of Commons suggests amendments to the Bill but they are not agreed to by the House of Lords or if the House of Lords rejects the bill, the original bill (ie as it left the House of Commons in the previous session) would still be passed if the *Parliament Acts* were invoked.

4. Commons consideration of the *Hunting Bill 2003-04*

During the course of Business Questions on 9 September 2004, Peter Hain, the Leader of the House, indicated how the Bill and suggested amendments to it would be proceeded with on 15 September 2004:

The intention next Wednesday would be to move the business motion at half-past 12. That could run till any hour—unless a closure motion is moved and you accept a closure motion earlier, Mr. Speaker. The Second Reading debate will run for five hours from half-past 12, so a vote would be expected at around half-past 5. Then the debate on the motion on the suggested amendments that the Government will be tabling early next week, to postpone commencement of the legislation in respect of hunting, will run for three hours. I accept that if other amendments to the Government's motion are tabled and are in order, they could be taken at that time too, so we would expect votes on that motion at around 8.45—certainly before 9 o'clock. Then debate on Third Reading can run for half an hour following a Division, and it would then be possible to send the Bill through to the House of Lords, accompanied by a message hopefully suggesting the amendments, and the Bill would then get its First Reading in the Lords probably next Thursday. That is the procedure that we have suggested.¹⁶

The motion on the Order Paper to allow the Bill to be considered in this manner makes provision for motions in the name of a minister to be taken when the House considers suggested amendments to the Bill:

At the conclusion of proceedings on Second Reading—

¹⁵ Erskine May, *Parliamentary Practice*, 23rd edition, 2004, p660

¹⁶ HC Deb 9 September 2004 c865

- (1) the Bill shall be treated as having been committed to a Committee of the whole House and as having been reported from the Committee without amendment, and
- (2) the House shall proceed to consider any Motion standing in the name of a Minister of the Crown under section 2(4) of the Parliament Act 1911 for a suggested amendment to the Bill.

The Opposition has tabled an amendment which, if accepted, would allow suggested amendments tabled by others to be considered:

When the Bill has been reported from the Committee without amendment, or at the conclusion of proceedings on consideration, whichever the case may be, the House shall proceed to consider any Motions under section 2(4) of the Parliament Act 1911 for suggested amendments to the Bill.

The full motion first appeared on the Order Paper published on 10 September 2004.

5. Implications of the suggested amendment

Alun Michael's statement on the Bill included the following announcement about a suggested amendment that would alter the time at which the ban on hunting with dogs would come into force:

... I shall ask the House to agree a motion to commence the Bill's provision in relation to hunting, but not hare-coursing events, two years after its enactment. Special procedures exist under the Parliament Act 1911 for changes to be made if agreed to by both Houses.¹⁷

The Bill passed by the House of Commons on 9 July 2003 included the commencement provision:

This Act shall come into force at the end of the period of three months beginning with the date on which it is passed.¹⁸

If the House of Commons agrees to the suggested amendment on 15 September 2004, the House of Lords is effectively left to decide between allowing a ban on hunting with dogs to be implemented either two years or three months after the Act is passed:

- If the House of Lords passes the Bill and accepts the suggested amendment, the ban will come into force two years after the Act is passed;

¹⁷ HC Deb 8 September 2004 cc1239W-1241W

¹⁸ *Hunting Bill 2002-03*, HL Bill 95 2002-03

- If the House of Lords rejects the Bill and the suggested amendment, the ban will come into force three months after the Act is passed because the existing Bill would be subjected to the *Parliament Acts* procedure.

However, the House of Lords may pass the Bill and reject the suggested amendment but make alternative amendments to the Bill. The Commons does not have to consider these amendments at all, but if it chooses to do so, they would be considered as Lords amendments in the normal way.

One further scenario is that the House of Commons does not agree to the suggested amendment.