



Preventing suffering

When the NGO Deer Branch was set up, it resolved to provide a problem solving facility for all NGO members. Alan Barrell, member of the NGO Deer Branch committee, answers one such question.

QUESTION

I recently came across a seriously injured deer which, for humane reasons, I wanted to put down but it was in the close season and at night, what is my legal position.

ANSWER

Sections 2 and 3 of the Deer Act 1991 (as amended by Statutory Instrument 2007 no. 2183) establishes closed seasons for all species of deer except muntjac and prohibit the shooting of any species of deer at night (night is defined as between one hour after sunset to one hour before sunrise). The legislators then recognised that there may be occasions when it is necessary to take or kill deer during these periods and the act therefore contains certain very limited defences available to a person who finds themselves in these circumstances.

Section 6 (2) of the Act states that: *"A person shall not be guilty of an offence under section 2 or section 3 by reason of an act done for the purpose of preventing the suffering of an injured or diseased deer."*

It follows that if a deer is found which is so seriously injured or diseased that it is believed that it is necessary to put it down to prevent it suffering, then it can be humanely dispatched at any time of the day or night and during the closed season.



Circumstances in which it would be possible to argue that you acted to prevent suffering to an injured animal. Be sure to collect evidence, however.

It should, however, be noted that these provisions establish a defence to the offences of taking or killing a deer at night or during the closed season. This means that it is for the person alleged to have committed the offence to prove that it was necessary to take or kill the deer in contravention of sections 2 or 3. It follows that if we find it necessary to put down an injured or diseased deer, we should gather evidence to support our decision in the event of a police enquiry. Imagine if, having dispatched the deer,

you load it in your vehicle at 2am and are then stopped by police while travelling home. How are you going to prove that your actions were lawful?

Firstly it helps if you are certain of the law and can politely, but firmly, tell the officers what it says. Then ensure that you have taken steps to record why it was necessary to euthanise the deer. If someone else told you of it, record who they were and obtain their contact details; perhaps take someone with you who can verify what you are saying, use your mobile phone or a camera to take photographs of the deer and, finally, invite the officers to inspect the carcass for its injuries or disease. Remember health and safety precautions when doing this.

Finally, a word of caution: these provisions do not authorise anyone to trespass on land to euthanise a deer. Ensure that you have the permission of the landowner to be there or your relationship with the landowner is such that you honestly believe that they would have given you permission to do so in the circumstances prevailing at the time.

Although every care has been taken in researching these subjects only the courts have the power to provide an authoritative interpretation of the law and neither the author or the editor can accept any responsibility in this respect.

ALAN BARRELL

The lead debate: science at last

writes Felix Bihlmeier

FOLLOWING A NUMBER OF ACCIDENTS AT driven shoots in Germany where lead-free rifle ammunition had been used, the Federal Ministry of Agriculture and Consumer Protection commissioned a study from the German Testing Laboratory for Sporting Weapons. During a year and a half of testing, 2,500 shots were fired into media such as bushes, spruce trunks, hard soil, stone and soft soil to compare deflection in various lead and non-

lead ammunition. This is the first such study in the world and results were published in February, together with an analysis and interpretation by Dr Beat Kneubuehl, Europe's leading ballistics expert from Bern University.

The following projectiles were analysed in a number of calibres: KS, Torpedo Optimal, Nosler Partition, Barnes TSX, Lapua Naturalis and Reichenberg.

The conclusions were surprising. Apart from the medium having a significant effect on deflection, deflection angles were not significantly different between

lead and non-lead ammunition, are generally small and always below 20 degrees. However, deflected non-lead projectiles retain significantly more mass and energy and thus travel further.

Doubtless, those who want to ban lead rifle ammunition on the grounds of contamination of meat and grallochs will home in on the deflection similarities of both types of ammunition, whereas the fans of lead will highlight the longer reach of deflected non-lead projectiles. The debate will go on.