

Cases, Updates & Materials

Hunting updates

Appeal

Mark Hankinson's conviction was overturned at appeal in July 2022. Hankinson, former Director of the Masters of Fox Hounds Association, was charged with intentionally encouraging or assisting others to commit an offence under the Hunting Act 2004 contrary to Section 44 of the Serious Crimes Act 2007. He was found guilty following a trial at Westminster Magistrates' Court in October 2021.

This followed a leaked training webinar produced by the Hunting Office which included Hankinson saying:

"It's a lot easier to create a smokescreen if you've got more than one trail layer operating and that is what it is all about, trying to portray to the people watching that you're going about your legitimate business."

At the appeal hearing, Hankinson claimed he was referring to the practice of laying dummy trails to deter hunt saboteurs. Judge Gregory Perrins ruled that Hankinson's words are capable of more than one interpretation

"The respondent has argued for one particular interpretation. However, the appellant has given evidence of a different interpretation. His interpretation, namely he was referring to different ways of deterring saboteurs, is not one that lacks all credibility nor is it an interpretation we feel able to dismiss out of hand. In those circumstances, we cannot be sure to the criminal standard that the appellant intended to encourage the commission of a criminal offence. For those reasons the appeal against conviction is allowed."

Judge Perrins said: "We accept his role within the Hunting Office was to ensure compliance with the law and the Hunting Office itself is committed to lawful hunting."

He added: "In those circumstances it would be unusual if they now took the decision to host a series of webinars which included advice on how to work around the ban."¹

Paul O' Shea

Covert footage showed O' Shea stabbing a fox multiple times with a pitchfork in December 2021. Experts said that the fox's suffering was likely to have been prolonged. In June O' Shea was sentenced for hunting a wild mammal with dogs, under the Hunting Act and causing unnecessary suffering to a protected animal under the Animal Welfare Act to an 18 week sentence suspended for 12 months at Chelmsford Magistrates Court. He was also ordered to do 200 hours of community service, banned from keeping dogs for 5 years, and pay £105 in costs. A 16 year old girl filmed with O' Shea was also charged with hunting a wild animal with dogs in relation to the filmed incident, but later the charges were discontinued.

O' Shea is thought to have had a long association with the East Essex Fox Hunt including working as one of the hunt's terrier men.

Cornish huntsman

John Lanyon Sampson hunt master of the Western Fox Hounds was in charge of hounds when they killed a pet cat on a Cornish housing estate last year. After the incident Sampson's son Edward was filmed looking throwing the dead cat over a fence into a garden.

John Sampson was found guilty of being in charge of a dog dangerously out of control in a public or private place. He was the person responsible for the hounds when they were being exercised. (A criminal damage charge was with-

¹ Mark Hankinson: Top huntsman did not encourage illegal fox hunting - BBC News accessed on 05/08/2022

drawn.) Sampson was ordered to pay costs of £1,653. In April of this year Sampson challenged his conviction by appeal at Truro Crown Court. Sampson's lawyer argued that the dogs were not dangerously out of control because they did not pose a threat to humans and that humans who approached them did not fear for their safety. However, the appeal panel found that the dogs were dangerously out of control because any reasonable person would think they were due to the specific facts of the case including the distance the hounds had moved from those who had control over them and the killing of the cat. The appeal was refused. Sampson was ordered to pay £340 prosecution costs.

"The Jane Goodall Act": a multidimensional hope

By Meganne Natali

The reintroduction by the Canadian Senate of the law known as "The Jane Goodall Act"¹ brings significant hope for wild animals.

Indeed, this law is articulated around a central objective, namely that of gradually prohibiting the captivity of wild animals such as elephants, primates or wild cats on Canadian territory (except in cases of superior interest of the animal). In this, it notably complements the first step taken by the Canadian Parliament in 2019, which notably prohibited any new introduction of cetaceans into the country's zoos².

The law, named in honor of the famous naturalist who devoted her life to raising public awareness of the sentient capacities of animals, thus recognizes from its Preamble that "science, empathy and justice require us to respect the biological and ecological characteristics and needs of animals" and that, consequently, wild animals "ought not to be kept in captivity".

Hence, the law is structured according to two amendments. On the one hand, it amends the Canadian Criminal Code by prohibiting the possession and reproduction of wild animals (445.2(2)). In addition, the law prohibits all unlicensed persons from organizing shows for entertainment purposes using wild animals, going so far as to sanction persons promoting or

attending such events (445.2 (4)). On the other hand, the law amends the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act by promoting a permit system intended to restrict the possibilities of reproduction of wild species held by zoos and the importation of new individuals.

In addition to these provisions, the law has also a second dimension, in that it defines an approach aimed at increasing Canada's steps to reduce the illegal trade in elephants. As such, the law provides for a total ban on the import of ivory products and elephant trophies from canned hunting organized in Africa. This provision aims strengthened international efforts to protect the last remaining wild elephant populations. The very existence of this ban illustrates the acknowledgement that such imports, exceptions to the CITES' prohibition of trade in elephants, contribute to the threat weighing on these populations and undermine the effectiveness of the norms in force.

Finally, this new law has a final dimension: that of facilitating access to justice for animal protection associations as well as for ordinary individuals (Criminal Code, 447.03). The law distinguishes in this respect the animal advocate from the defender of animals. This considering by the law of the need to ensure representation for wild animals, and to facilitate the terms and conditions thereof, greatly contributes to the improvement of the implementation of animal protection on Canadian territory. Moreover, this opening up of possibilities for representing elements of biodiversity and the environment is echoed in what is gradually being observed around the world today, particularly with regard to climate litigation. In all of its dimensions, "The Jane Goodall Act" represents a great hope for wild animals as it in line with a global legislative evolution aimed at recognizing animals and nature rights and allowing concerned citizens to defend them in justice.

Dr. Meganne Natali's PhD focused on "International Law facing Illegal Biodiversity Trade". She is deeply passionate about the need to protect the environment, improve animal welfare and promote human rights. Dr Natali is a Case Manager at the Doctoral Clinic of Interna-



tional Human Rights Law of Aix-en-Provence where she manages groups of LLM students working on cases for NGOs and institutions like the Office for the High Commissioner for Human Rights.

Legislation

Police Crime Sentencing and Courts Act 2022

The Police Crime Sentencing and Courts Act 2022 includes new measures (s.62-70) to tackle illegal hare coursing.

Hare coursing is currently prohibited under the Hunting Act 2005 along with other forms of hunting with hounds. Hare coursing, allegedly linked to other dangerous crime such as theft and criminal damage, is the practice of using dogs to chase and eventually kill hares.

This new legislation strengthens protection of hares from hare coursing by:

- Increasing the maximum penalty for trespassing in pursuit of game to maximum of six months' imprisonment and/or an unlimited fine.
- Introducing new powers to (a) award the reimbursement of kennelling costs for dogs seized in connection with hare coursing offences and (b) disqualify offenders from owning or keeping dogs.

Creating new offences of trespassing or being equipped to trespass with the intention of using a dog to search for or pursue a hare.

Animal Welfare (Sentience) Act 2022

The Animal Welfare (Sentience) Act 2022 has received Royal Assent, but will not come into force until the Secretary of State brings in regulations by statutory instrument.

Once the legislation comes into force, it will extend to England and Wales, Scotland and Northern Ireland and will require the Secretary of State to establish and maintain an Animal Sentience

Committee (ASC), which will have the power to produce a report about any government policy that is being formulated or implemented, to ensure that 'the government has all due regard to the ways in which the policy might have an adverse effect on the welfare of animals as sentient beings.' (s.2(4)).

During the course of the bill's passage, the definition of 'animal' was extended from vertebrates to also include decapod crustaceans and cephalopod molluscs.

Notwithstanding that there is still no legal duty to establish and maintain a committee, Defra is taking steps to set this up and Michael Seals has been confirmed as first chair of the ASC. Mr Seals is a former chair of the Animal Health and Welfare Board of England and the current Chairman of the Animal Medicines Training Regulatory Authority.

Glue traps (Offences) Act 2022

The Glue Traps (Offences) Act 2022 is another act that has received Royal Assent, but will not come into force until the Secretary of State brings in regulations by statutory instrument.

Once in force, the legislation will make it unlawful to set a glue trap in England for the purpose of catching a rodent or in a manner which gives rise to a risk that a rodent will be caught in a glue trap. However, no offence will be created 'if the glue trap is set under, and in accordance with the terms of, a glue trap licence.' (s.1(3)).

The legislation makes provision for the Secretary of State to grant a glue trap licence, however the nature of the licensing regime remains to be determined by secondary legislation.

Animals caught in glue traps can have horrific injuries or can tragically die due to stress, dehydration or exhaustion.

Animals (Penalty Notices) Act 2022

The Animals Penalty Notices Act 2022 received royal assent on 28 April 2022. It makes provision for penalty notices to be issued for certain offences to animals and animal products under certain legislation, including European Com-

munities Act 1972, Dangerous Wild Animals Act 1976, Dangerous Dogs Act 1991, Zoo Licensing Act 1981, Animal Health Act 1981, Animal Welfare Act 2006 and Wild Animals in Circuses Act 2019. The legislation provides a new power to issue a fixed on-the-spot penalty notice for up to £5,000. It was discussed in the initial stages that the Animal Penalty Notices Bill was to ensure offences of non-compliance of farming and agriculture standards, some of which end in 2024 now we have left the EU did not slip through the net. The penalties were extended to include all kept animals including companion and zoo animals, as well as animal products.

It was also made clear in the discussion stages that these penalties are not appropriate for severe offences where prosecution is more appropriate. It is also recommended that advice and guidance should be given first to give an opportunity to put right the issue before penalties are issued.

Animals Abroad Bill

Heralded in DEFRA's Action Plan for Animal Welfare, the Animals Abroad Bill has not been published.

The proposed bill targeted activities in the UK driving cruel practices involving animals abroad including trophy hunting, low welfare tourist attractions involving animals and the production of fur *foie gras*. The action plan proposed banning the sale and advertising of low welfare animal experiences abroad and would have banned the import of *foie gras*, fur and certain exhibits from trophy hunts.

In November 2021 the EFRA Committee held an inquiry into the proposals.

The proposals were popular with the public with 85% of the public supporting a total ban on all species in trophy hunting, not just a ban on trophy hunting of endangered species. Bans on the import of fur and *foie gras* also received significant support from the public.

A ban on the sale and marketing of elephant rides from commercial outfits abroad exploiting elephants for tourism, also received high levels of public support.



Media reports suggest the bill has been dropped due to concerns that the proposals collide with personal freedom, albeit the freedom to engage in what are widely regarded as exploitative practices that would be unlawful in the UK.

Animal Welfare (Kept Animals) Bill

The Animal Welfare (Kept Animals) Bill is a government bill that brings together a number of provisions to strengthen the welfare of kept animals. This includes a ban on the keeping of primates as pets without a licence, an update to the Zoo Licensing Act 1981, the introduction of a new offence of taking a dog without lawful authority, and ending the export (subject to certain exceptions) of live animals for fattening and slaughter abroad. The legislation also contains powers to limit the import of dogs on welfare grounds to tackle puppy farming and, for example, the import of dogs with mutilated ears for commercial sale in the UK.

The Kept Animals Bill was introduced in the last parliamentary session and was carried over to the current Session, where it is due to pro-

gress to Report stage in the Commons. In order to complete its journey through parliament, the government will need to ensure that sufficient parliamentary time is allocated. A parliamentary petition (Find the time to take the Kept Animals Bill through Parliament and make it law - Petitions) urging the government to make this bill law has attracted over 75,000 signatures at the time of writing.

Games Birds (Cage Breeding) Bill

The Games Birds (Cage Breeding) Bill started in the House of Lords as a Private Members' Bill sponsored by Lord Randall of Uxbridge and received its second reading on 25 March 2022.

The bill aims to prohibit keeping pheasants or partridges in "raised laying cages" or "battery cages" for the purpose of producing eggs and introduces minimum sizes for enclosures (with a requirement for a minimum of two square metres of floor space per bird).

This bill had not received Royal Assent by the

end of a session and therefore will need to be re-introduced in the next parliamentary session to stand a chance to become law.

Shark Fins Bill

The Shark Fins Bill was introduced as a Private Members' Bill in June 2022 to ban the import and export of detached shark fins, aiming to 'protect sharks against unsustainable fishing practices, with shark finning having been banned in UK waters for nearly 20 years' according to the Explanatory Memorandum Shark Fins Bill (parliament.uk).

The principles behind the bill had the support of 115,383 signatures in a petition on Parliament's website to ban British shark fin trade - The UK should ban the importation of Shark Fins. - Petitions (parliament.uk).

This bill had not received Royal Assent by the end of a session and therefore will need to be re-introduced in the next parliamentary session to stand a chance to become law.

Hen Caging (Prohibition) Bill

A Bill to prohibit the caging of commercially reared, egg-laying hens and pullets, this was introduced as a Private Members' Bill by Henry Smith MP.

This bill had not received Royal Assent by the end of a session and therefore will need to be re-introduced in the next parliamentary session to stand a chance to become law.

Genetic Technology (Precision Breeding) Bill

The Genetic Technology (Precision Breeding) Bill proposes new regulatory powers for the gene editing of plants, animals and derived products. The inclusion of animals as a subject of this proposed legislation has been met with great concern by animal advocacy groups, including Compassion in World Farming (CIWF), who write: "We are deeply concerned that the Genetic Technology (Precision Breeding) Bill will give a green light to the gene editing of farmed animals to the detriment of their welfare," says Peter Stevenson OBE, our Chief Policy Advisor. "Selective breeding has already pushed farm

animals to such fast growth and high yields that many suffer from painful health problems and this new Bill is poised to make such problems much worse and will pave the way for animals to be kept in even more crowded, stressful conditions than at present.

"It is vital that the Government do not allow gene editing to be used to support an antiquated, inhumane farming system – factory farming."

Humane League granted permission for judicial review of DEFRA's fast growing broiler policy

The Humane League (represented by law firm, Advocates for Animals) has been granted permission for a judicial review of DEFRA over its failure to prevent farmers from breeding fast growing broiler chickens.

The challenge is brought on animal welfare grounds and argues that the practice of breeding fast growing genotypes contravenes the Welfare of Farmed Animals (England) Regulations 2007, which requires that "Animals may only be kept for farming purposes if it can reasonably be expected, on the basis of their genotype or phenotype, that they can be kept without any detrimental effect on their health or welfare."

The Humane League was twice denied permission to bring the judicial review, but appealed successfully to the Court of Appeal.