

## Countryside Alliance comments for ECHA Annex XV Restriction Report

**Please tell us if the definition of a wetland proposed for the restriction (the Ramsar convention definition) is appropriate to describe the range of wetland habitats where the use of lead shot poses a risk, specifically the risk to waterbirds that ingest lead shot and the risk of predatory and scavenging birds that consume lead-contaminated prey/carrion. If you consider that this definition is not appropriate, please tell us which specific wetland habitats should be included or excluded from the proposed restriction and justify this based on the relevance of these habitats to the risks posed by the use of lead gunshot.**

### Current Legislation

1. The introduction of restrictions on the use of lead shot over wetlands was the result of scientific evidence<sup>123</sup> and the UK being a signatory party to the Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA). The UK banned the use of lead shot over the foreshore and specified (wetland) Sites of Special Scientific Interest (SSSIs); for hunting wildfowl, coot *Fulica atra* and moorhen *Gallinula chloropus* in all areas in England in 1999<sup>4</sup>, after a four year voluntary phase out period, and Wales in 2002<sup>5</sup>; and for hunting over wetlands (for any type of shooting activity) in Scotland in 2004<sup>6</sup> and Northern Ireland in 2009<sup>7</sup>.
2. The two variations in the legislation complement specifically the types of shooting that occurs in each country, with both legislative approaches capable of working. The AEWA agreement on the phase out of the use of lead shot for hunting refers specifically to wetlands. It places no requirement upon parties to regulate the use of lead in hunting on the basis of species.

### England and Wales Legislation

3. The choice in England and Wales to restrict the use of lead shot on basis of species instead of habitat was designed to address a particular problem, namely that of fed flight ponds. These are the sort of ponds that are heavily shot in and around, and therefore required further protection from lead shot.
4. The legislation in England and Wales also covers over 300 SSSIs where the risk of lead poisoning to waterbirds is at its highest. The legislation in this instance is beneficial to waterbirds and is not overly restrictive as many of these SSSIs contain only shootable surpluses of waterbirds which are already covered by the legislation.
5. No studies have examined the effect, in terms of reducing the risk to waterbirds, if the full RAMSAR definition, including peatlands, were included in English and Welsh law.

### Scotland and Northern Ireland Legislation

6. The legislation in Scotland and Northern Ireland was based on the fact that there was less focus on the fed flight ponds found in England and Wales, and more emphasis on rough shooting and wildfowling. The introduction of this legislation was based on the available scientific evidence<sup>123</sup> in an attempt to reduce the risk to waterbirds.

<sup>1</sup> Olney PJS (1960). Lead poisoning in wildfowl. In: Wildfowl Trust Annual Report. Wildfowl Trust, Slimbridge, pp123-134

<sup>2</sup> Thomas GJ (1980). Review of ingested lead poisoning in waterfowl. Intern Waterfowl Res Bureau Bulletin 46:43-60

<sup>3</sup> Mudge GP (1983). The incidence and significance of ingested lead pellet poisoning in British wildfowl. Biological Conservation 27:333-372

<sup>4</sup> Her Majesty's Stationery Office (HMSO) (2002a) The Environmental Protection (Restriction on Use of Lead Shot) (England) (Amendment) Regulations 2002. <http://www.hmso.gov.uk/si/si2002/20022102.htm>. Accessed 2 April 2012

<sup>5</sup> Her Majesty's Stationery Office (HMSO) (2002b) The Environmental Protection (Restriction on Use of Lead Shot) (Wales) Regulations 2002. <http://www.hmso.gov.uk/legislation/wales/wsi2002/20021730e.htm>. Accessed 2 April 2012

<sup>6</sup> Her Majesty's Stationery Office (HMSO) (2004) The Environmental Protection (Restriction on Use of Lead Shot) (Scotland) (No. 2) Regulations 2004. <http://www.opsi.gov.uk/legislation/scotland/ssi2004/20040358.htm>. Accessed 2 April 2012

<sup>7</sup> Her Majesty's Stationery Office (HMSO) (2009) The Environmental Protection (Restriction on Use of Lead Shot) Regulations (Northern Ireland) 2009. [http://www.opsi.gov.uk/sr/sr2009/plain/nisr\\_20090168\\_en](http://www.opsi.gov.uk/sr/sr2009/plain/nisr_20090168_en). Accessed 2 April 2012

7. No studies have examined whether the current legislation in Scotland and Northern Ireland is reducing the risk to waterbirds, nor whether there is need to include the full RAMSAR definition, with particular reference to peatlands.

#### **Introduction of Peatlands to the Definition**

8. The authors are aware of no scientific evidence which would necessitate the inclusion of the full RAMSAR definition of wetlands, with particular reference to peatlands, in order to protect further waterbirds and predatory and scavenging birds. Nor has there been scientific evidence provided that shows the inclusion of the full RAMSAR definition will reduce the risk to waterbirds.
9. The occurrence of waterbirds, which have been shown to be at risk from lead ammunition, in populations that offer a shootable surplus on peatlands in the UK are very rare. Peatlands, as found in the UK, do not offer up suitable habitat for waterbirds as much as the other habitats defined by RAMSAR. Where they are found in great numbers they will be hunted within the current legislation which stipulates non-lead shot is used.
10. Numerous studies have recorded the prevalence of ingestion of lead shot by waterbirds<sup>8</sup>, however, not one study identifies the inclusion of the full RAMSAR definition of wetlands, with particular reference to peatlands, will reduce the risk of ingestion. Indeed the Oxford Lead Symposium<sup>9</sup> which discusses many of the perceived risks from lead ammunition failed to mention peatlands, or the addition of peatlands into the legislation, once.
11. If the full RAMSAR definition of wetlands was transposed into UK law then there would be an immediate issue with implementation and enforcement. First and foremost there is the question of the definition of 'peatlands'. The authors can see no easy definition, which will result in immediate enforcement issues. For those that hunt over potential peatland, the legislation will cause confusion. In addition, vague definitions with varying boundaries will make it near impossible for enforcement agencies to prosecute.
12. Peatlands incorporate a wide range of habitats throughout the UK, with waterbirds known to inhabit some and not others. Likewise, shooting is known to take place over some areas but not others. There is currently no conceivable benefit from a blanket ban on shooting with lead over peatland.

#### **Scavengers and Predatory Birds**

13. With regards to the risk through consumption of lead-contaminated prey/carrion to predatory and scavenging birds, the results are inconclusive in the UK. Pain et al.<sup>10</sup> reported lead concentrations from tissue samples from carcasses of 44 red kites, with elevated liver lead concentrations (>15 mg/kg dw) indicating that 4 (9%) of the birds had probably died from lead poisoning. Walker et al.<sup>11,12</sup> reported liver lead concentrations for another 38 carcasses of red kites and found no cases with elevated liver lead concentrations. Taking into consideration the red kites recent population explosion (1000% increase between 1997 and 2013) and its move from red-listed to amber-listed in 1999, the risk to the population is low to negligible. Whilst there is sufficient evidence of the impact of lead-contaminated prey/carrion to predatory and scavenging birds in some other countries, there is no single study that adequately demonstrates a pathway between spent lead ammunition and adverse effects on any UK raptor at the population level.

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<sup>8</sup> Newth JL, Cromie RL, Brown MJ, Delahay RJ, Meharg AA, Deacon C, Norton GJ, O'Brien MR & Pain DJ (2012). Poisoning from lead gunshot: still a threat to wild waterbirds in Britain. *European Journal of Wildlife Research* DOI 10.1007/s10344-012-0666-7

<sup>9</sup> <http://oxfordleadsymposium.info/>

<sup>10</sup> Pain DJ, Carter I, Sainsbury AW, Shore R, Eden P, Taggart MA, Konstantinos S, Walker LA, Meharg AA, Raab A (2007). Lead contamination and associated disease in captive and reintroduced red kites (*Milvus milvus*) in England. *Science of the Total Environment* 376(1), 116-127

<sup>11</sup> Walker LA, Lawlor AJ, Potter ED, Pereira MG, Sainsbury AW, Shore RF (2012). Lead (Pb) concentrations in predatory bird livers 2010: a Predatory Bird Monitoring Scheme (PBMS) report. 13pp. Centre for Ecology and Hydrology (CEH), Lancaster, UK

<sup>12</sup> Walker LA, Chaplow JS, Lawlor AJ, Pereira MG, Potter ED, Sainsbury AW, Shore RF (2013). Lead (Pb) concentrations in predatory bird livers 2010 and 2011: a Predatory Bird Monitoring Scheme (PBMS) report. 12pp. Centre for Ecology and Hydrology (CEH), Lancaster, UK

#### Summary

14. The authors are against the unnecessary introduction of the full RAMSAR definition of wetlands within the proposed restrictions. Although the UK legislation is rather more complex than may be desired it has the potential to provide ample mitigation for the demonstrable risks to waterbirds. Instead any decisions regarding the introduction or change of legislation should be on country-by-country based evidence. To date there has been no evidence provided to necessitate a change in UK legislation, in order to further protect waterbirds, and predatory and scavenging birds. A blanket ban based on unsatisfactory evidence is not the right approach.

**Please tell us about your experience with any existing legislation that prevents or reduces the use of lead gunshot in wetlands, in particular:**

- How effective is the legislation in terms of reducing the risk of poisoning to birds (waterbirds, predatory birds and scavengers – and to the environment as a whole)?
- How have wetland definitions been implemented in practice (e.g. are maps published, is there guidance for hunters on where use of lead gunshot is prohibited, is there mandatory training for hunters, are ‘buffer zones’ around wetlands used)?
- How does the enforcement strategy adopted by authority affect compliance, e.g. the probability of inspections in the field, potential penalties for non-compliance?

#### Implementation

15. The current legislation across the UK is promoted heavily by shooting organisations, and the shooting and countryside press. In an attempt to improve compliance a campaign called ‘Use Lead Legally’ was initiated in 2013<sup>13</sup> by shooting organisations. Legislative guidance for hunters can be found on all shooting organisations’ websites, as well as cartridge manufacturers and distributors’ websites.

#### Buffer Zones

16. The authors have serious concerns about the introduction of ‘buffer zones’, which are currently not applied under UK legislation.
17. The authors are unaware of any scientific evidence that wildfowl will benefit from the addition of a buffer zone. Further known unknowns include the size of area that will be covered by a buffer zone and the direct cost to hunters that this buffer zone will have in the UK. For this reason alone buffer zones should not be implemented unless a full cost/benefit analysis is completed, including scientific evidence that shows the inclusion of buffer zones would reduce the risk to waterbirds.
18. The UK contains a high percentage of currently defined wetlands, the impact that buffer zones would have on shooting would be more concentrated than in many other EU countries. This could be adjudged as unfair and unscientific in the absence of evidence to justify this further restriction.
19. The addition of buffer zones will cause confusion to the shooting community. Not knowing where the buffer zone starts and ends will leave hunters uncertain as to whether they are breaking the law or not. This will be especially relevant for rough shooting which is less regimented than driven shooting. The addition of buffer zones will also cause implementation issues with enforcement agencies not able to discern whether the law has been broken.
20. The authors believe buffer zones will create, due to confusion and implementation issues, an unworkable law that would be resented by the shooting community and will have no impact on the risk of lead poisoning to waterbirds.

#### Compliance

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<sup>13</sup> [https://leadshotcampaign.org.uk/?page\\_id=11](https://leadshotcampaign.org.uk/?page_id=11)

21. In England, there is evidence of non-compliance with the existing restrictions with 68% (n=40) of ducks purchased from a number of game outlets in 2001/2002<sup>14</sup> and 70% (n=492) purchased between 2008 and 2010<sup>15</sup> containing some recent lead shot. However, all shooting organisations and the Code of Good Shooting Practice<sup>16</sup> have pushed the shooting community to comply with the law or risk further restrictions, and asked Police Forces to increase the pressure on those continuously flouting the law<sup>17</sup>. Although the compliance levels are low the latter study did not include the wildfowl that contained no shot (n=148), as it is not known what type of shot is more likely to pass through the body of an animal the actual rate of non-compliance could be 53% (n=640). The two studies might be flawed due to the fact that the sample wildfowl could have been sourced from Scotland or, although less likely, Northern Ireland, where shooting wildfowl with lead is still legal if not over wetlands. Furthermore, wildfowl shot by wildfowling clubs using non-lead shot is less likely to enter the food market over the wildfowl from commercial shoots, with some wildfowling clubs making it a rule to prohibit the selling of shot game.
22. Every wildfowling club across the UK will ban any member that is caught using lead shot, and spot checks on members occur regularly. This is highlighted by a significantly higher proportion of mallard *Anas platyrhynchos* being shot with lead compared to wigeon *Anas Penelope* and teal *Anas crecca* (337/459 (73%) compared to 2/20 (10%) and 5/13 (38%), respectively)<sup>18</sup>, species which are predominantly found on the coastal regions away from commercial mallard shoots.
23. There are over 140 wildfowling clubs in the UK shooting over 250,000 acres<sup>19</sup>. That is a quarter of a million acres over which no lead shot has been used since the introduction of the regulations. The size of the area shot over by inland commercial duck shoots where non-compliance is present, although unquantifiable, will be smaller.
24. Exclusive of wildfowling clubs, the level of compliance in Scotland and Northern Ireland is unknown because it is impossible to partake in compliance tests due to the legislation. The habitat specific legislation allows the shooting of wildfowl over non-wetland habitat in Scotland and Northern Ireland, making compliance tests void. The only way to catch any potential law breakers is to improve enforcement. However, and as stated below, there is little appetite from police forces for greater enforcement, potentially leading to no tangible benefits for the English and Welsh legislation being changed to habitat specific legislation. This is of paramount importance as habitat specific legislation is what ECHA is proposing.

#### **Enforcement**

25. The low compliance levels could be causing a lack of change in the number of lead poisoning cases in waterbirds over the past 50 years despite the addition of legislation. Cases of lead poisoning in waterbirds that died of non-infectious diseases accounted for 13.7% between 1971 and 1987 (n=204), 20.8% (n=360) between 1988 and 1999 and 11.8% (n=423) between 2000 and 2010<sup>20</sup>. Although lead poisoning has seen nearly a 50 % drop between 1999 and 2010 the overall results were not significant.

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<sup>14</sup> Cromie RL, Brown MJ, Hughes B, Hoccom DG, Williams G (2002) Prevalence of shot-in pellets in Mallard purchased from game dealers in England in winter 2001/2002. In: RSPB (2002) Compliance with the Lead Shot Regulations (England) during winter 2001/02. RSPB, Sandy, UK

<sup>15</sup> Cromie RL, Loram A, Hurst L, O'Brien M, Newth J, Brown MJ, Harradine JP (2010) Compliance with the Environmental Protection (Restrictions on Use of Lead Shot) (England) Regulations 1999. Report to Defra, Bristol. Pp 99.

<sup>16</sup> <http://www.codeofgoodshootingpractice.org.uk/> Last Accessed 20/06/2016

<sup>17</sup> <http://www.countryside-alliance.org/shooting-groups-urge-guns-to-comply-with-the-law-on-lead/> Last Accessed 16/05/2016

<sup>18</sup> Cromie RL, Loram A, Hurst L, O'Brien M, Newth J, Brown MJ, Harradine JP (2010) Compliance with the Environmental Protection (Restrictions on Use of Lead Shot) (England) Regulations 1999. Report to Defra, Bristol. Pp 99.

<sup>19</sup> <https://basc.org.uk/blog/press-releases/latest-news/value-of-wildfowling-highlighted-as-season-draws-to-a-close/>

<sup>20</sup> Newth JL, Cromie RL, Brown MJ, Delahay RJ, Meharg AA, Deacon C, Norton GJ, O'Briedn MR & Pain DJ (2012). Poisoning from lead gunshot: still a threat to wild waterbirds in Britain. European Journal of Wildlife Research DOI 10.1007/s10344-012-0666-7

26. The UK could achieve full compliance with the legislation through increased enforcement, education and publicity from enforcement agencies, yet there has been no evidence of any effort from enforcement agencies since the varying laws were introduced, despite numerous pleas from shooting organisations<sup>21</sup>.
27. With the full cooperation of enforcement agencies any potential law breakers could be found and prosecuted. Success has already been witnessed in the United States of America where stricter enforcement coupled with a real possibility of a penalty was implemented by government supported enforcement officers<sup>22</sup>. This shows that the UK's current legislation can work.
28. The key to success is the correct implementation and enforcement of our current legislation not further legislative restrictions.

#### **Possession**

29. One possible option for improving compliance is by banning the possession of lead shot when on or near wetlands. This further restriction has the potential to work, through enforcement agencies doing spot checks on hunters as they enter defined wetland habitats. However, the application and success of the restriction will immediately fail because of the lack of enforcement agencies willing to do spot checks, in the UK in particular, and because of the difficulty in plotting the exact line between a wetland habitat as defined in the legislation and other neighbouring habitats.
30. The proposal to ban the possession of lead shot when on, or near, wetlands will have a discriminating impact on the shooting community, in particular rough shooters who cover a lot of ground and varying habitats within one day. It would be a senseless law that would only cause further confusion within the shooting community.

#### **Summary**

31. **The current legislation across the UK has the ability to reduce the risk of lead poisoning in waterbirds. Full compliance has not been achieved largely because of a lack of interest from enforcement agencies. Further restrictions such as buffer zones or standardisations of the legislation across the EU are unnecessary in the absence of any new evidence to support a change. In addition any further restrictions will not be successful so long as the enforcement agencies continue to show no interest. The shooting community should not be unfairly punished for the lack of enforcement, nor should any further unscientific and unenforceable legislation be implemented, such as the ban on possession of lead shot on or near wetlands. Such changes would result in no discernible benefits.**

**Noting that several Member States have already implemented 'total bans' on the use of lead gunshot (e.g. The Netherlands, Denmark), please tell us about your experience with the use of lead-free gunshot cartridges in wetlands, in particular:**

- Do you know if lead-free gunshot cartridges are available in your Member State or region? If so, what are the most commonly used gunshot materials (e.g. steel, bismuth-tin, tungsten-based, copper-based)?
- Do you know if there are any specific circumstances under which the use of lead-free shotgun cartridges are not feasible?
- Under what circumstances is it necessary to obtain a new shotgun in order to use lead-free cartridges? How many shotguns will need to be prematurely replaced in the EU as a result of this restriction proposal?
- How long does it take to adapt to the use of lead-free gunshot cartridges when either hunting or sports shooting? Are there any long-term consequences of the transition on hunting efficiency, hunter safety or animal welfare?

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<sup>21</sup> <http://www.countryside-alliance.org/shooting-groups-urge-guns-to-comply-with-the-law-on-lead/> Last Accessed 16/05/2016

<sup>22</sup> Thomas (2009) The policy and legislative dimensions of non-toxic shot and bullet use in North America. In: Watson RT, Fuller M, Pokras M, Hunt WG (eds). Ingestion of lead from spent ammunition: implications for wildlife and humans. The Peregrine Fund, Boise, Idaho, USA. pp 351-362.

- **Have you ever been trained on the use of lead-free gunshot cartridges. Who was the organiser of the training? Did this affect the way you hunted?**
- **Are lead-free cartridges more or less expensive to produce than lead gunshot cartridges? If so, by how much and why? For example, based on our current understanding, steel gunshot cartridges are slightly more expensive to purchase than lead gunshot cartridges, even though the raw material is cheaper.**

#### **Availability and Cost of Non-Lead Cartridges**

32. Non-lead cartridges are available in the majority of gauges in the UK, but difficulties exist for the rarer and smaller shotgun gauges such as .410, 28 and 16 bores. Whilst the majority of wildfowling will use steel shot, the only price-comparable cartridge, those with rarer and smaller gauges have to use the vastly more expensive (approximately five times the price) bismuth based cartridges<sup>23</sup>, or face buying new shotguns.
33. Steel shot, the only comparably-priced cartridge to lead, currently uses a plastic wad. Although a pollutant plastic wads are more or less accepted whilst wildfowling. However, there are a number of commercial and non-commercial shoots that will not allow the use of plastic wads; as it is thought the plastic wads could be ingested by livestock causing digestive issues. This issue is scientifically unproven but the increase in plastic wads is worth noting in regards to any further moves to restrict lead ammunition.

#### **Compliance success**

34. The sole reason for the 100% compliance achieved by the wildfowling clubs is because the clubs have taken a zero-tolerance attitude towards using lead shot. The clubs are able to back this zero-tolerance up with effective enforcement, and secondly the change to non-lead shot for wildfowling has been minimally disruptive in comparison to other forms of shooting. The changes were minimal because the majority of wildfowling already owned modified shotguns before the introduction of the legislation to deal with both the larger quarry and the wildfowling conditions (salt water and mud). These modified shotguns are able to handle price-comparable non-lead cartridges.
35. The majority of traditional shotguns are unable to shoot steel cartridges as the cartridges are too long for the shotgun chamber and are therefore the owners are left solely with the more expensive cartridge option.

#### **Summary**

36. **The full costs of any further restrictions on lead ammunition are still to be calculated and agreed. Before any further restrictions a full cost/benefit analysis is required taking account of the impact of further restrictions on the environment. Whilst non-lead cartridge alternatives are available there are still questions about the rarer and smaller gauges and the issue around plastic wads which have yet to be answered reliably.**

**Please tell us about shooting ranges (e.g. for clay pigeon shooting) that are located within wetlands or nearby to wetlands in your specific Member State or region. Is there currently any legislation preventing the use of lead gunshot at these sites? Do you know if there are any risk management measures applied at these sites to control the risks from the use of lead gunshot (e.g. to avoid contamination of groundwater or poisoning of birds) or has any remediation been undertaken?**

#### **Shooting Ranges**

37. The authors are unaware of the number of, if any, clay pigeon grounds located within, or nearby to, wetlands in the UK. Any clay pigeon grounds located within, or nearby to, wetlands will be subject to the restrictions in that part of the UK. According to the Clay Pigeon Shooting Association (CPSA) there are no further management measures applied at these sites to control the risks from the use of lead shot.

<sup>23</sup> <http://www.justcartridges.com/cartridge-info/NT/Non%20Toxic/>

**Do you have specific information on how a restriction of lead gunshot in wetlands would affect EU industry (e.g. shotgun and shotgun cartridge manufacturers or retailers)? Is the currently proposed transitional period of 36 months appropriate for manufacturers and users of lead gunshot cartridges to transition to the use of lead-free alternatives? What would be the consequences of a shorter transitional period of 18 months?**

**Proposed Transitional Period**

38. The authors feel that if scientific evidence is provided that would justify the harmonisation of legislation on the use of lead shot over wetlands across the UK, and/or the inclusion of the full RAMSAR definition of wetlands, and buffer zones, then a transition period of 60 months should be applied. Currently, the economic effect on the EU's shooting industry of any further restrictions on lead ammunition is not known. Therefore the authors support a longer transition period over a shorter period. 60 months will leave more time for transition to lead-free alternatives depending on what restriction, if any, is to be applied.