



Areas for legal reform to facilitate  
“kept-wild” large herbivores in  
largescale nature restoration

Photo credit: European bison (*Bison bonasus*), Białowieża, Poland, taken on 3 November 2021 by Gregoire Dubois.

## EXECUTIVE SUMMARY

Large herbivores play a crucial role in restoring nature in the UK by replacing lost ecosystem functions. Their impact is maximised when they can live with minimal human interference so as to preserve their natural behaviours. Generally, these large herbivores are still subject to human management to a limited extent (i.e. they are “kept-wild” animals rather than fully wild).

UK legislation relating to large herbivores was designed for domestic livestock and equines and presents barriers to initiatives looking to restore ecosystems with kept-wild large herbivores. It is not always clear how this legislation applies to kept-wild large herbivores and in certain instances, rewilding projects are expected to comply with burdensome overlapping regulatory requirements. These requirements are often not suited to these animals, which live at low densities over large areas and have a degree of autonomy.

In particular, the issues presented by the legislation include:

- **The interaction between The Dangerous Wild Animals Act 1976 (“DWAA”), Wildlife and Countryside Act 1981 (“WCA”) and regulatory frameworks for livestock:** the DWAA is currently treated as applying to certain species of kept-wild large herbivore (bison, elk and wild boar). At present these kept-wild large herbivores are treated simultaneously as wild animals in captivity under the DWAA, animals released into the wild subject to release licensing under the Wildlife and Countryside Act 1981 and (for bison) as livestock subject to regulatory frameworks applying to domestic farm animals, such as identification requirements. This approach is incoherent, as an animal cannot be a captive wild animal, a released wild animal and domestic livestock all at the same time. Treating relevant kept-wild large herbivores as subject to these three very different regulatory regimes is burdensome for nature restoration projects. This is a key demonstration of the binary approach of the current legal frameworks, which make provision for wild and domestic animals but not animals which fall somewhere between the two categories/have characteristics of both.
- **Other problems raised by the application of the DWAA to kept-wild large herbivores:** As mentioned above, certain large herbivore species are treated as falling within the scope of the DWAA. However, it is not clear whether these kept-wild large herbivores should actually be considered to be animals in captivity for the purposes of the DWAA. This links to the broader point above that the current regulatory frameworks do not take into account the position of kept-wild large herbivores which fall between the traditional categories of wild and domestic animals or wild and captive animals. In addition, from a practical perspective the DWAA can lead to burdensome requirements around fencing and public access being imposed on projects.
- **Animal welfare legislation:** there is a lack of clarity as to how animal welfare requirements apply to kept-wild large herbivores, given that these animals are able to live semi-autonomously from humans.
- **Identification rules:** although they are treated as applying, it is not clear whether these rules actually apply to kept-wild large herbivores in all cases. These rules require handling of

animals early in their lives. Kept-wild animals may not be used to human contact and young animals may be difficult to locate quickly.

- **Requirements relating to the disposal of fallen stock under the regulation of animal byproducts rules:** again, these are considered to apply to kept-wild large herbivores, although it is not entirely clear whether kept-wild large herbivores do fall within scope in all cases. The application of these rules can lead to practical difficulties collecting carcasses in time given that kept-wild large herbivores tend to live autonomously and roam over large areas. These rules also prevent carcasses of kept-wild herbivores being left to decompose on-site despite this being an important process in functional ecosystems.
- **TB testing requirements:** these require handling of kept-wild animals which may be unused to human contact.

These issues could be resolved by reforming the law relating to kept-wild large herbivores by recognising “kept-wild” as a legal category. This would provide for distinct legal treatment for kept-wild large herbivores which reflects their particular needs and circumstances, and resolve the current lack of clarity in the law. As an alternative to creating a new overarching legal category, each piece of relevant legislation could be amended to clarify how it applies to these animals and to ensure that it applies in an appropriate way.

This would in turn facilitate the use of kept-wild large herbivores in rewilding projects, providing significant ecological benefits including seed dispersal, creation of micro-habitats and providing nutrients to species which depend on dung or carcasses.

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