

# LICENCE [DRAFT]



## To kill or take certain birds to preserve public health or public safety

Issued under	Wildlife and Countryside Act 1981 (as amended) ["the Act"]
Valid for the period	1 January to 31 December XXXX (inclusive)
Valid in	England
Who may use	Authorised persons only (see Definitions & Condition 12)
Registration	Users do not need to register to use this licence
Recording & reporting	None required
Reference	WML / GEN L07

### Overview of licence

*This licence permits landowners, occupiers and other authorised persons to carry out a range of otherwise prohibited activities against the species of wild birds listed on the licence. This licence may only be relied upon where the activities are carried out for the purpose of preserving public health or public safety, and users must comply with licence terms and conditions. These conditions include the requirement that the user must be satisfied that legal (including non-lethal) methods of resolving the problem are ineffective or impracticable.*

### THE PURPOSE(S) FOR WHICH THIS LICENCE APPLIES

1. Subject to paragraph 2 and the licence conditions, this licence is granted to preserve public health or public safety

### WHAT THE LICENCE PERMITS

2. For the purposes set out in paragraph 1 above, and subject to the terms and conditions, below, this licence permits:
  - (i) Authorised persons to kill or take any of the wild birds listed at (a) and (b) below, to take, damage or destroy their nests or to take or destroy their eggs:

(a) Crow	<i>Corvus corone</i>
Dove, Collared	<i>Streptopelia decaocto</i>
Gull, Lesser Black-backed	<i>Larus fuscus</i>
Jackdaw	<i>Corvus monedula</i>
Jay	<i>Garrulus glandarius</i>
Magpie	<i>Pica pica</i>
Pigeon, Feral	<i>Columba livia</i>
Rook	<i>Corvus frugilegus</i>
Woodpigeon	<i>Columba palumbus</i>
  - (b) Goose, Canada *Branta canadensis*  
Parakeet, Monk *Myiopsitta monachus*
  - (ii) Authorised persons to take, damage or destroy the nests or to take or destroy their eggs of the species listed below:

Gull, Herring	<i>Larus argentatus</i>
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  - (iii) Authorised persons acting under subparagraph (2)(i) above

- (a) to use a semi-automatic weapon;
- (b) to use a cage trap, the dimensions of which do not satisfy the requirements of section 8(1) of the Act;
- (c) to use any net, except the use of any net for taking birds in flight or the use for taking birds on the ground of any net which is projected or propelled otherwise than by hand, and
- (d) in relation to the killing or taking of **Feral Pigeon (*Columba livia*)** only:
  - i. to use any device for illuminating a target or any sighting device for night shooting;
  - ii. to use any form of artificial lighting or any mirror or other dazzling device;

## LICENCE CONDITIONS

3. In respect to the species listed at paragraph 2(i)(a) and 2(ii) above, this licence can only be relied on in circumstances where the authorised person is satisfied that appropriate legal methods of resolving the problem such as scaring and proofing are either ineffective or impracticable (see note n).
4. Except as specifically permitted under subparagraph 2(iii) above, this licence does not authorise the use of any method of killing or taking which is prohibited by section 5 or section 8 of the Act.
5. Any birds killed in accordance with this licence must be killed in a quick and humane manner. Canada Geese held captive prior to being killed must be killed out of sight of other captive birds of the same species. (see note k(ii))
6. Where any cage trap, including a trap authorised under subparagraph 2(iii) above is used, then only the bird species listed in this paragraph may be used as decoys:

<b>Crow</b>	<b><i>Corvus corone</i></b>
<b>Jackdaw</b>	<b><i>Corvus monedula</i></b>
<b>Jay</b>	<b><i>Garrulus glandarius</i></b>
<b>Magpie</b>	<b><i>Pica pica</i></b>
<b>Parakeet, Monk</b>	<b><i>Myiopsitta monachus</i></b>
<b>Rook</b>	<b><i>Corvus frugilegus</i></b>

7. All relevant animal welfare legislation must be complied with at all times, including the Animal Welfare Act 2006. This includes providing decoy birds with adequate food, water at all times, appropriate shelter and a suitable perch that does not cause discomfort to the birds' feet (see note t)
8. Where any live animal, other than a bird included in the list at subparagraph 2(i) above, or an animal of a species listed on Schedule 9 of the Act, has become confined in a cage trap, if fit to be released, it must be released immediately upon discovery. See **note m** regarding any animals that are listed on Schedule 9.
9. When in use, every cage trap used pursuant to this licence must be inspected at least once every day at intervals of no more than 24 hours except where this is not possible because of severe weather conditions. In such cases, every effort must be made to inspect the cage trap as soon as possible. Such an inspection must be sufficient to determine whether there are any live or dead birds or other animals in the trap (see note r)
10. At each inspection any dead animal, including any dead bird, caught in the trap should be removed from it (see note k(ii))
11. Where a cage trap is not in use, it must be rendered incapable of holding or catching birds or other animals. Any bait, food, water or decoy birds must also be removed (see note s)
12. No person convicted on or after 1 January 2010 of an offence to which this paragraph applies may use this licence unless, in respect of that offence they are either (1) a rehabilitated person for the purposes of the Rehabilitation of Offenders Act 1974 and their conviction is treated as spent; or (2) in respect of such an offence, a court has made an order discharging them absolutely. This paragraph applies to offences under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats &c.) Regulations 1994, the Protection of Badgers Act 1992, the Deer Act 1991, the Hunting Act 2004, the Wild Mammals (Protection) Act 1996, the Animal Health and Welfare Act 2006 and the Protection of Animals Act 1911 (all as amended) (see note i)

## Definitions used in this licence

13. “*authorised person*” At the time of issue of this licence, “authorised person” is defined in section 27(1) of the Wildlife and Countryside Act 1981 as:
- i. the owner or occupier, or any person authorised by the owner or occupier, of the land on which the action authorised is taken;
  - ii. any person authorised in writing by the local authority for the area within which the action authorised is taken; and
  - iii. as respects anything done in relation to wild birds, any person authorised in writing by any of the following bodies, that is to say, any of the GB conservation bodies [*this includes Natural England*], a district board for a fishery district within the meaning of the Salmon Fisheries (Scotland) Act 1862 or a local fisheries committee constituted under the Sea Fisheries Regulation Act 1966;
  - iv. any person authorised in writing by the [Environment Agency], a water undertaker or a sewerage undertaker,  
so, however, that the authorisation of any person for the purposes of this definition shall not confer any right of entry upon any land.
14. “*to kill*” includes accidentally to wound whilst attempting to kill in accordance with this licence;
15. “*humanely*” means taking all reasonable precautions to ensure that any killing of birds under this licence is carried out by a single, swift action.
16. “*semi-automatic weapon*” means any weapon which is not prohibited by section 5 of the Firearms Act 1968 as amended and which has a magazine capable of holding more than two rounds of ammunition, where the depression of the trigger discharges a single shot and reloads the next, each subsequent shot requiring a further depression of the trigger;
17. “*wild bird*” has the same meaning as in section 27 of the Act. At the time of issue of this licence, “*wild bird*” is defined as “*any bird of a species which is ordinarily resident in or is a visitor to the European territory of any member State in a wild state but does not include poultry, or except in sections 5 and 16, any game bird*”.

### WARNING

Failure to act within the purpose of this licence as set out in paragraph 1 or failure to comply with the terms and conditions may mean that the licence cannot be relied upon and an offence could therefore be committed. The maximum penalty available for an offence under the Act is, at the time of the issue of this licence, a level 5 fine (£5000) and/or a six month custodial sentence.

[signature]

for and on behalf of Natural England  
[insert date]

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## EXPLANTORY NOTES

### The law

- a) Natural England has issued this licence in exercise of the powers conferred by Section 16 (1)(i) and section 16(5) of the Act, being satisfied that as regards the purpose set out at paragraph 1 there is no other satisfactory solution.
- b) Under section 1 of the Act it is an offence for any person to kill, injure or take any wild bird; to take, damage or destroy the nest of any wild bird while the nest is in use or being built; or to take or destroy an egg of any wild bird.
- c) Section 5 of the Act prohibits the use of certain methods of killing and taking wild birds including, but not exclusively, the use of any poisonous, poisoned or stupefying substance, any bow or crossbow, any explosive other than ammunition for a firearm, or any chemical wetting agent.

- d) Under section 8 of the Act, it is an offence for any person to keep or confine any bird whatever in any cage or other receptacle which is not sufficient in height, length or breadth to permit the bird to stretch its wings freely.
- e) Section 16(1) of the Act provides that sections 1, 5 and 8 shall not apply to anything done under and in accordance with the terms of a licence granted by the appropriate authority, which is, in England, Natural England.

### The limits of this licence

- f) This licence permits action only for the purposes specified in paragraph 1. You may not use it to prevent nuisance (such as excessive noise).
- g) This licence does not confer any right of entry upon land.
- h) Birds killed or taken under this licence may be eaten, but, with the exception of the **woodpigeon (*Columba palumbus*)**, may not be sold for human consumption.
- i) Any person not permitted to use this General Licence on account of a relevant conviction (see Condition 12) may still apply to Natural England for a specific licence for the purpose(s) and activities covered by this licence. Any such application will be considered on its merits.
- j) Please note that except as provided under section 16(7) of the Act, this licence does not permit actions prohibited under any other legislation. For example,
  - i. where the action involves the use of firearms, it is the authorised person's responsibility to ensure that he complies with all relevant legislation.
  - ii. anyone acting under this licence is not exempt from the provisions of section 28E of the Act, as amended. This means that owners and occupiers of sites designated as Sites of Special Scientific Interest are obliged to seek the consent of Natural England if they propose to carry out an activity on the site that is listed on the protected site notification as an "operation likely to damage"
  - iii. statutory undertakers (as defined under Section 28G of the Act) are reminded that they are obliged under Section 28H of the Act to give notice to Natural England before carrying out operations likely to damage any of the special interest features of a Site of Special Scientific Interest (SSSI) and this obligation applies even where the operations are carried out on land not included in the SSSI. To identify SSSIs and the features for which they are designated, refer to [www.magic.gov.uk](http://www.magic.gov.uk). Consult the site notification for details of 'operations likely to damage', and consider whether your activity is likely to have an impact. Advice may be sought from Natural England's regional teams ([www.naturalengland.org.uk/contact/](http://www.naturalengland.org.uk/contact/) or Telephone 0845 600 3078)
- k) Persons acting under this licence should have regard
  - i. to the Environmental Protection (Restriction on Use of Lead Shot) (England) Regulations 1999 (SI 1999/2170). Regulation 3 prohibits the use of lead shot for the purpose of shooting quarry species of wildfowl with a shot gun anywhere in the country and all use of lead shot for shotgun shooting on most wetlands important for waterbirds, and
  - ii. to good practice and any legislation affecting the disposal of the carcass(es) of any bird killed in accordance with this licence.
- l) This licence may be modified or revoked at any time.

### Non-native species

- m) Under section 14 of the Act it is an offence to release into the wild any animal included in Part 1 of Schedule 9 to the Act. Any animals of species listed on Schedule 9 caught under this licence should be treated as follows:
  - i. Animals of the following species, which are considered native to Great Britain, must be released immediately upon discovery. This is permitted under General Licence WML-L30.
 

<b>Barn Owl</b>	<b><i>Tyto alba</i></b>
<b>Capercaillie</b>	<b><i>Tetrao urogallus</i></b>
<b>White-tailed eagle</b>	<b><i>Haliaeetus albicilla</i></b>
  - ii. Animals of other species listed on Schedule 9 (this includes the Canada Goose, *Branta canadensis* and the Monk Parakeet, *Myiopsitta monachus*) must not be released or allowed to

escape into the wild. It is preferable that these animals are killed in a quick and humane manner as soon as reasonably practicable after discovery. These animals may only be released under an individual licence obtained from Natural England.

- n) Condition 3 of this licence – which requires users to satisfy themselves that other appropriate legal methods of resolving the problem are either ineffective or impracticable - only applies to bird species that Natural England considers to be native to Great Britain (these are listed at paragraph 2(i)(a) and 2(ii)); it does not apply to non-native species (listed at paragraphs 2(i)(b)). People may use non-lethal methods, such as scaring and proofing, for non-natives and are encouraged to do so where this is the best solution to a problem, but these methods do not need to be shown to be ineffective or impracticable before this licence can be relied upon.

### General welfare considerations

- o) Under the Animal Welfare Act 2006 it is an offence to cause any unnecessary suffering to an animal (including birds) under the control of man (section 4 of the 2006 Act). This applies to the humane despatch of captured animals and to the treatment of animals held in traps or nets.
- p) It is the responsibility of each person relying on this licence to use appropriate equipment (e.g. trap, net, firearm and ammunition) and to ensure that they are competent to use such equipment so as to avoid causing unnecessary suffering.

### Use of traps

- q) Where cage traps used under the terms of this licence consistently capture birds not included in the list at subparagraph 2(i), the trap should be moved, as a matter of good practice, to a different location in order to minimise the risk of such birds being caught again.
- r) The authorised person should have regard to the inspection requirements contained in paragraph 9 when considering the use of a cage trap under this licence. As a matter of good practice, cage traps should not be used during severe weather conditions, or when such conditions are reasonably anticipated.
- s) In order to render any cage trap incapable of holding or catching birds or other animals, it is necessary to either secure the door in a fully open or closed position or to remove the door completely.
- t) Treatment of decoys birds:
- i. In addition to the general welfare provisions stipulated above, where a decoy bird is used, under Section 9 of the Animal Welfare Act 2006 the person setting and operation a trap is also responsible for the welfare of the decoy bird, ensuring that it has sufficient food, water and shelter, and protection from pain, suffering, injury and disease.
  - ii. *Adequate food*: means sufficient, palatable food, which is of a type suitable for the decoy species, to meet the needs of the bird(s). Food provision will not be considered 'adequate' if the decoy bird(s) cannot readily access it, or if other birds or mammals could deprive the bird of its food.
  - iii. *Water at all times*: *water must always* be available to decoy birds and drinkable; it should be free from chemical additives and changed regularly to ensure that it is clean. The water needs to be kept ice-free during day-light hours. If this is not possible, then the conditions are not suitable for using a decoy bird in a trap.
  - iv. *Appropriate shelter*: decoy birds are to be provided with shelter that provides effective protection from rain and direct sunlight under the prevailing and anticipated weather conditions. Such provision will be influenced by the location of the trap and its exposure to the elements. The perch should be sheltered. As a matter of good practice, cage traps should not be used during severe weather conditions, or when such conditions are reasonably anticipated.
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