

LICENCE [DRAFT]

To keep birds of species listed on Schedule 4 pending legal proceedings

NATURAL
ENGLAND

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 organisations and persons acting on their behalf (see Conditions 3 & 7)
Registration	Users do not need to register to use this licence
Recording & reporting	Recording and reporting required
Reference	WML / GEN L11

Overview of licence

This licence permits a range of organisations (and those acting on their behalf) to keep Schedule 4 birds without registering them, whilst investigations and legal proceedings are being carried out. Users must comply with licence terms and conditions.

THE PURPOSE(S) FOR WHICH THIS LICENCE APPLIES

1. Subject to paragraph 2 and the licence conditions, this licence is granted for the purpose of conserving wild birds.

WHAT THE LICENCE PERMITS

2. For the purpose set out in paragraph 1 above, and subject to the terms and conditions, below, this licence permits the keeping of specimens of species listed on Schedule 4 of the Act without satisfying the requirement to register birds, notwithstanding the provisions of Section 7 of that Act and the Wildlife and Countryside (registration and Ringing of Certain Captive Birds) Regulations 1982 - SI 1982 No 1221, as amended by SI/1991 no 478 and SI 1994 no 1551.

LICENCE CONDITIONS

3. This licence may only be relied upon by the organisations listed below and by persons acting on their behalf.
 - (i) any police force;
 - (ii) HM Customs and Excise;
 - (iii) Royal Society for the Protection of Birds, and
 - (iv) Royal Society for the Prevention of Cruelty to Animals.
4. This licence may only be relied upon for the keeping of birds subject to pending legal proceedings. There is no time limit on the duration of keeping permitted under this licence so long as legal proceedings, including any appeals process, continues or is anticipated to do so. Once legal proceedings have concluded the bird(s) should be registered in accordance with the regulations within 3 months (see note b)
5. The person keeping birds under the terms of this licence must notify the Wildlife Licensing and Registration Service (Animal Health), Defra, 1/17 Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6EB of:
 - (i) the birds which are being kept under the provisions of this licence. The notification to include details of the species, age and sex of the bird(s), ring number(s), the name and address of the person from whom the birds were seized and all the alleged offences involving the birds;

- (ii) the outcome of the prosecution;
 - (iii) the outcome of any appeal.
6. The bird(s) must be ringed with a ring that complies with the regulations (see note b)
7. 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 g)

Welfare and releasing

8. All relevant animal welfare legislation must be complied with at all times, including the Animal Welfare Act 2006 (see notes j - k)
9. For wild-bred Schedule 4 birds intended for release into the wild once legal proceedings have concluded:
- (i) every effort must be made to ensure that birds do not become imprinted or otherwise rendered unfit, as a consequence of being in captivity, for subsequent release back into the wild.
 - (ii) birds intended for release into the wild must be released or replaced at or as close as possible to the location from which they were taken or restrained, but may be released up to one (1) kilometre from this place if releasing at the source location is not possible or would not be safe.
 - (iii) The prior permission or authority of the landowner of the release location is required for the release.

Definitions

10. **“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]

Wildlife Licensing Unit
Natural England
Burghill Road, Westbury-on-Trym
Bristol BS10 6NJ
T 0845 601 4523 F 0845 601 3438
Email wildlife@naturalengland.org.uk

EXPLANTORY NOTES

The law

- a) Natural England has issued this licence in exercise of the powers conferred by Section 16(1)(c) 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) Section 7(1) of the Act provides that it shall be an offence if any person has in his possession or

under his control any bird included in Schedule 4 which has not be registered and ringed or marked in accordance with regulations made by the Secretary of State. Statutory Instrument 2008/2357 has most recently amended the regulations to allow the Secretary of State to accept a marking of a bird in accordance with CITES as an alternative to a ring provided by the Secretary of State.

- c) Section 16 of the Act provides that section 7 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.
- d) Licensees are reminded that the Wildlife Licensing and Registration Service of Animal Health should be informed immediately of the name and address of any new keeper to whom a bird is transferred under the provisions of this licence. Birds kept under the provisions of this licence must be registered with the Department when legal proceedings are completed.

The limits of this licence

- e) This licence permits action only for the purposes specified in paragraph 1.
- f) Please note that except as provided under section 16(7) of the Act, this licence does not permit actions prohibited under any other legislation.
- g) Any person not permitted to use this General Licence on account of a relevant conviction (see Condition 7) 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.
- h) A licence in similar terms has been issued by the Scottish Executive in respect of Scotland and the National Assembly for Wales in respect of Wales.
- i) This licence may be modified or revoked at any time.

General welfare considerations

- j) 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). It is the responsibility of each person relying on this licence to avoid causing unnecessary suffering.
 - k) In respect to any bird intended to be released into the wild:
 - i. it should be kept in accordance with recognised good practice to ensure, as far as possible, that they are released in a healthy and disease-free state.
 - it should be released at a location and a time where the risk of injury to themselves, other animals or people is minimised.
 - prior to release, the persons acting under this licence must be satisfied that the animal is fit for release into the wild.
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