

# LICENCE

## To take certain birds trapped in food premises to preserve public health or public safety



Issued under:	Wildlife and Countryside Act 1981 (as amended) ["the Act"]
Valid for the period:	22 April to 31 December 2010 (inclusive)
Valid in:	England (landward of the mean low water mark)
Who may use:	Owners and managers of food premises may, having registered their food premises, use this licence and authorise other persons to act on their behalf (see Definitions and Conditions 4-7)
Registration:	Required before relying on this licence. This licence may only be used at premises registered with Natural England.
Recording & reporting:	Annual reporting and recording requirement
Reference:	WML / GEN L35

### Overview of licence

*This licence permits owners and managers of food premises (and any persons they authorise to act on their behalf) to catch for the purpose of preserving public health or public safety and release unharmed any wild birds of the species listed on this licence that have become trapped in the building. This licence may only be used at food premises that have been registered with Natural England and where all reasonable and lawful steps have been taken to prevent entry by birds and only if other non-lethal methods of removing the birds (such as opening doors) are ineffective or impracticable. Anyone acting under the licence must be competent to do so.*

### 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 take (and then release alive and unharmed) any of the wild birds listed below:

<b>House Sparrow</b>	<b><i>Passer domesticus</i></b>
<b>Starling</b>	<b><i>Sturnus vulgaris</i></b>
<b>Robin</b>	<b><i>Erithacus rubecula</i></b>
<b>Blackbird</b>	<b><i>Turdus merula</i></b>
  - (ii) Authorised persons acting under subparagraph (2)(i) above to use, as necessary:
    - a. a cage or net trap, the dimensions of which do not satisfy the requirements of section 8(1) of the Act; (see note f);
    - b. a static mist-net for taking birds in flight or any hand-held net;
    - c. any sound recording in conjunction only with a) and b) above.

### LICENCE CONDITIONS

3. Except as specifically permitted under subparagraph 2(ii) above, this licence does not authorise the use of any method of taking which is prohibited by section 5 or section 8 of the Act.

## Eligibility to use this licence

4. This licence may only be used by the owner or manager of a food premises (or by authorised Accredited Agents or assistants; see Condition 5):
  - (i) at food premises registered with the Natural England Licensing Unit. There must be a named person (the 'Licensee') whose details are registered for each food premise who is responsible for the conduct of all activities carried out under this licence whether by themselves or other people (see note k), and
  - (ii) in circumstances where appropriate legal methods of preventing birds entering the food premises have been taken and any installations (such as proofing measures) are installed and properly maintained, and all means of legally flushing birds out of the premises are either ineffective or impracticable (see note t)
5. The Licensee may authorise Accredited Agents (see Definitions) to work on his/her behalf. Agents are only permitted to act under the licence if they are in possession of a letter signed by the Licensee appointing them by name as a duly Accredited Agent for the purpose of this licence. Agents shall produce it to any police or Natural England officer on demand. The Licensee and Accredited Agents may authorise assistants provided they work under their direct personal supervision.
6. A person is only permitted to use methods authorised at paragraph 2(ii), above if he or she is competent and experienced in their use for catching wild birds. Only persons in possession of a valid 'A' or 'C' permit issued by the British Trust for Ornithology (BTO), or a valid personal licence authorising them to use mist nets issued by Natural England are permitted to use a mist-net under this licence. Holders of 'T' permits under the BTO's Ringing Scheme are not permitted to use a mist-net under this licence (see note v)
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 Conservation of Habitats and Species Regulations 2010, the Protection of Badgers Act 1992, the Deer Act 1991, the Hunting Act 2004, the Wild Mammals (Protection) Act 1996, the Animal Welfare Act 2006 and the Protection of Animals Act 1911 (all as amended) (see note h).
8. The Licensee shall permit an officer of Natural England, accompanied by such individuals as he/she considers necessary for the purpose, on production of his/her identification on demand, to inspect premises registered to use this licence and to be present during any operations carried out under the authority of this licence for the purpose of ascertaining whether the conditions of this licence are being, or have been, complied with. The Licensee and authorised persons shall give all reasonable assistance to an officer of Natural England and any individuals accompanying him/her.

## Acting under this licence

9. Persons acting under this licence must comply, as appropriate, with:
  - (i) TIN006 '*A guide to those taking part in mist-netting of birds in buildings*'
  - (ii) TIN071 '*Bird in Food Premises – Trapping Techniques*' (see note w)
10. All reasonable steps must be taken to prevent injury to birds taken under this licence and all relevant animal welfare legislation must be complied with at all times, including the Animal Welfare Act 2006. (see notes q and r)
11. If any nest containing eggs or young is located within the premises then this licence cannot be relied upon to take any further action until advice has been obtained from the Natural England Licensing Unit on how best to proceed.
12. Bird(s) must only be released outside during daylight hours, avoiding late afternoons during winter and severe weather conditions at all times.
13. Any captured bird must be carefully placed in a bird bag or a secure cage. If you use a cage to hold birds prior to release this must be placed in a dark room or covered so that the birds are kept in

darkness until they are released. The room should also be fairly quiet i.e. free from machinery noise.

14. If more than one bird is being transported after capture, all must be released together at the same location.
15. 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 or caught in a net, if fit to be released, it must be released immediately upon discovery. See **note p** regarding any animals that are listed on Schedule 9.

#### **Additional licence conditions for cage and net traps only**

16. When in use, every cage trap used pursuant to this licence must be physically inspected by an authorised person at least twice every day. Such an inspection must be sufficient to determine whether there are birds or other animals in the trap.
17. At each inspection, any bird or other animal caught in the trap must be immediately removed from it.
18. At all times when set, each trap must contain suitable food and water sufficient to provide for any captive birds unless birds are removed immediately after their capture.
19. Where a cage trap is not in use, it must be rendered incapable of holding or catching birds or other animals. Any bait, food or water must also be removed (see note u)

#### **Recording and reporting requirements**

20. The Licensee shall maintain a record, which shall be kept for at least two (2) years beyond the expiry date of this licence, of all birds taken and released, and a summary of licensed activities (see Annex A) shall be sent to the Natural England for each calendar year, by 31 January of the succeeding year.

#### **Definitions used in this licence**

21. A “food premises” means an enclosed premise used for the retailing, production, processing, packaging and storage of food intended for sale for human consumption
22. “Authorised persons” means owners and managers of “food premises” registered to use this licence and any persons they authorise as Accredited Agents or assistants.
23. An “Accredited Agent” is a suitably trained and experienced person who is able to carry out work in accordance with this licence. To carry out work they must be in possession of a letter signed by the Licensee appointing him or her as an Accredited Agent for the purpose of this licence. At all times the Licensee is fully responsible for all the work carried out under the licence.
24. “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.



**Wendy Phillips**

for and on behalf of Natural England  
21 April 2010

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#### **EXPLANATORY 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 Wildlife and Countryside Act 1981 (as amended), being satisfied that as regards the purpose set out at paragraph 1 there is no other satisfactory solution.

Visit the Office of Public Sector Information website to view the full text of this legislation

([www.opsi.gov.uk/legislation/about\\_legislation](http://www.opsi.gov.uk/legislation/about_legislation)).

- 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(1) 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 purpose specified in paragraph 1 above. You may not use this licence to prevent nuisance (such as activating movement sensor alarms) as this is not permitted under the Act. If the techniques permitted under this licence prove unsuccessful at catching the trapped birds then contact the Licensing Unit for advice. **To shoot a trapped bird will require a separate licence issued by Natural England.**
- g) This licence does not confer any right of entry upon land or property.
- h) 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.
- i) 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, 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". 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 (<http://www.naturalengland.org.uk/contact/default.htm> or 0845 600 3078)
- j) The provisions of this licence only apply landward of the mean low water mark in England. The Marine Management Organisation is responsible for all licensing seaward of the mean low water mark.
- k) This licence may be modified or revoked at any time.

### How to register a food premise to use this licence

- l) To register a food premise before relying on this licence it is necessary to submit in writing (preferably, by email) the following details to the Natural England Licensing Unit:
  - i. name of a responsible person (e.g. owner or manager) who will be the 'Licensee';
  - ii. name and address of the premises, telephone number and email address (if available)
  - iii. a short description of the premises (e.g. 'a supermarket')
- m) Once registered, this licence may be used so long as the terms and conditions of the licence are met. Failure to comply by the terms and conditions, including the recording and reporting requirements, will, by default, render registration null and void.
- n) Anyone seeking to confirm whether a food premise is registered to use this licence should contact the Wildlife Licensing Unit.
- o) The registration of a premise may be revoked by Natural England. In these circumstances Natural England will inform the Licensee within 28 days.

## Non-native species

p) 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>Corncrake</b>	<b><i>Crex crex</i></b>
<b>Common crane</b>	<b><i>Grus grus</i></b>
<b>Northern goshawk</b>	<b><i>Accipiter gentilis</i></b>
<b>Red-billed chough</b>	<b><i>Pyrrhocorax pyrrhocorax</i></b>
<b>Red kite</b>	<b><i>Milvus milvus</i></b>
<b>White-tailed eagle</b>	<b><i>Haliaeetus albicilla</i></b> (also known as <i>Haliaeetus albicilla</i> )

ii. Animals of other species listed on Schedule 9 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.

## General welfare considerations

- q) 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 treatment of animals held in traps or nets or translocated and released.
- r) It is the responsibility of each authorised person relying on this licence to use appropriate equipment (e.g. cage-traps and mist-nets) and to ensure that they are competent to use such equipment so as to avoid causing unnecessary suffering.
- s) Birds should be released as soon as possible after capture. To prevent a recurrence of incursions (in addition to the measures outlined at note (s)) it may be necessary to release captured birds at a suitable site at least four (4) miles (6.5 km) from the site of capture. However, we advise against this course of action during the bird breeding season in case any captured bird has a nest with eggs or dependent young nearby.

## Preventing birds entering premises

- t) This licence may only be used in respect of a food premises if all reasonable and lawful steps have been taken to prevent incursions by birds and if appropriate efforts have been taken to flush birds out of buildings. Measures that should be employed to avoid problems with birds in food premises include:
- (i) *Eliminate feeding opportunities*: clear-up food spills, cover or move exposed produce and replace or protect damaged packaging;
- (ii) *Raise awareness*: make sure all staff (and where appropriate, other building users) are aware of the potential problems caused by birds and what to do to prevent incursions into buildings. Do not feed the birds inside buildings or close to entrances.
- (iii) *Adequately proof buildings*: do everything practicable to prevent birds entering buildings in the first place.
- install swing-doors, strip curtain doors, roller-doors or rapid action doors. Do not leave doors open unless protected, e.g. by strip curtains;
  - screen windows or keep them closed
  - make sure birds cannot enter buildings via vents or other apertures
  - carry-out regular checks of the integrity of proofing measures and take prompt action to repair damage and wear and tear.
- (iv) *Before using this licence*: open doors and windows during daytime, turn off lights and attempt to flush birds outside;

## Use of traps

- u) 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.

## Use of mist-nets

- v) To apply for a personal licence to use mist-nets please use Application Form WML A-08 (available at: [www.naturalengland.org.uk/Images/wmla08\\_tcm6-10335.doc](http://www.naturalengland.org.uk/Images/wmla08_tcm6-10335.doc) or from the Wildlife Licensing Unit.

## Guidance on trap and net use

- w) The following advice notes are available from the Natural England website: [www.naturalengland.org.uk](http://www.naturalengland.org.uk), or from the Enquiry Service, Tel: 0845 600 3078.
- TIN006 '*A guide to those taking part in mist-netting of birds in buildings*'
  - TIN071 '*Bird in Food Premises – Trapping Techniques*'
- x) If any caught birds have leg rings, we request that details are recorded and sent to the BTO at The Ringing Unit, BTO, The Nunnery, Thetford, Norfolk IP24 2PU. Please include details of the bird species and where it was trapped and released. Alternatively details may be submitted online at [www.ring.ac](http://www.ring.ac). Do not remove rings from live birds.

## Annex A

### Report of licensed activities

The following minimum information must be provided in each annual report for all birds caught and released under this licence.

Premise name and address				
Map Reference				
Year				
Species of bird		Number caught and released	Trap or Mist Net	Date