



Department
for Environment
Food & Rural Affairs



The Scottish
Government



Llywodraeth Cymru
Welsh Government

Captive bred birds: changing how we regulate trading in England, Scotland and Wales

January 2015

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Any enquiries regarding this document/publication should be sent to us at:

BirdTrade.Consultation@defra.gsi.gov.uk

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1. Why are we consulting?

- 1.1 We are seeking views regarding proposed changes to the way the trade in captive-bred birds is regulated in Britain.
- 1.2 The primary aim in seeking your views is to assess the advantages and disadvantages of three options outlined in the consultation. These options are designed to implement proposed changes to the way we regulate the trade in captive-bred birds in Britain so as to ensure that requirements for trading captive-bred birds are consistently achievable, regardless of whether they were hatched in Britain or were imported from another EU Member State. This goal is referred to as the 'Primary Issue'.
- 1.3 Central to resolving the Primary Issue is a proposal to amend the definition of rings which may be used when trading captive-bred birds. This is referred to as the 'Key Proposal'. We welcome your thoughts on this.
- 1.4 We are also seeking opinions and information relating to a range of other issues which will help to inform decisions about further potential changes to the regime. Any such changes will not be implemented until the primary aim has been achieved.

Responding to this consultation

1.5 This consultation contains a range of questions regarding the current way in which the trade in captive-bred birds is regulated, and the range of options we are currently considering to improve the regime. If you would like to submit any further information related to the issues in this consultation, please send it by email to:

BirdTrade.Consultation@defra.gsi.gov.uk

Question 1: What is your name?

Name:.....
.....

Question 2: What is your email address?

This is optional, but if you enter your email address then you will be able to return to edit your consultation at any time until you submit it. You will also receive an acknowledgement email when you complete the consultation.

Email Address:

Question 3: What organisation do you belong to (if any)?

Organisation:.....

Question 4: Are you responding on behalf of the above your organisation or as an individual?

(Required)

- Organisation []
- Yourself []

Question 5: Though the protection of wild birds is a devolved matter, this consultation applies across Britain (England, Scotland and Wales). Please indicate whether your response applies to Britain as a whole, or just England, Wales, Scotland (or any combination of the three).

(Required)

- Britain []
- England []
- Scotland []
- Wales []

1.6 When this consultation ends, we will hold copies of the responses and they will be made available on request. Members of the public may ask for a copy of responses under freedom of information legislation.

1.7 If you do not want your response - including your name, contact details and any other personal information – to be publicly available, please say so clearly in writing when you send your response to the consultation. Please note, if your computer automatically includes a confidentiality disclaimer, that won't count as a confidentiality request.

1.8 Please explain why you need to keep details confidential. We will take your reasons into account if someone asks for this information under freedom of information legislation. But, because of the law, we cannot promise that we will always be able to keep those details confidential

Question 6: Would you like your response to be kept confidential?

(Required)

- **Yes** []
- **No** []

If you answered yes, can you provide an explanation for your preference?

Background

1.9 In England, Scotland and Wales, all wild birds are protected by law from being killed, injured and taken from the wild by section 1 of the Wildlife & Countryside Act 1981¹ (hereafter referred to as ‘the 1981 Act’). It is also an offence under that section to damage their nests or eggs². This protection does not extend to birds bred in captivity, which people may lawfully possess – though they must be able to show that the bird is lawfully held if challenged.

1.10 Trade in ‘captive-bred birds’ is permitted, but is regulated to ensure the protection of wild populations. Throughout this consultation ‘captive-bred birds’ means those birds which have:

- a) been lawfully bred in captivity and
- b) are of a species which is ordinarily resident in or is a visitor to the European territory of any Member State in a wild state. This does not include poultry or (in England and Wales only) any game bird.

¹ <http://www.legislation.gov.uk/ukpga/1981/69>

² It should be noted that there are differences in the scope of the offences in section 1 between England, Wales and Scotland. For example in England and Wales these offences cover intentional behaviour only, whilst in Scotland they cover both intentional and reckless behaviour.

- 1.11 Concerns have been raised that the current legislative and administrative regime regulating the trade in captive-bred birds requires reform, because it may restrict the trade in captive-bred birds imported into Britain from other European Member States. The current British legislation was drafted over 30 years ago, when the market in captive-bred birds was quite different. Therefore, a review of the current regime is timely.
- 1.12 Nature conservation is a devolved matter, meaning trade in these birds is the responsibility of the individual administrations – England, Scotland or Wales. Nevertheless, there are many similarities between the regimes regulating trade in captive bred birds across Britain. Therefore Defra, Scottish Government and Welsh Government are undertaking a joint review of how this trade is regulated. Options for change will aim, as far as possible, to provide a consistent approach across the different administrations. However, administrations may decide on different courses of action.
- 1.13 The position in Northern Ireland is different to that in Britain in that no trade in captive-bred birds is permitted. The Department for Environment Northern Ireland is currently reviewing this policy. This paper does not apply to Northern Ireland.
- 1.14 This consultation document aims to:
- a) Set out the current legislative and administrative regime under which live captive-bred birds may be lawfully traded in England, Wales and Scotland;
 - b) Discuss a key issue that has been identified with the current regime, regarding the onward-selling of birds imported from other Member States;
 - c) Identify a number of options for addressing this issue;
 - d) Seek views on these potential solutions from interested parties;
 - e) Discuss and seek views on a number of additional issues regarding the regime, which will be addressed through changes undertaken to a separate timescale (see ‘Further Issues to Consider’ in chapter 6).

2. The current British regime for trading live captive-bred birds

Overview

- 2.2 The sections below explain how the trade in live captive-bred birds is regulated in Great Britain at the moment, the key points being that:
- 2.3 Captive-bred birds are not protected in the same way as birds that hatched in the wild. The trade in captive-bred birds is controlled through regulatory and administrative means in order to ensure the protection of wild bird populations.
- 2.4 Captive-bred birds of species listed in Part I of Schedule 3 to the 1981 Act can be lawfully traded as a result of an exception provided in section 6 of the Act, provided they can meet certain conditions, including being ringed in accordance with regulations³.
- 2.5 Certain captive-bred specimens of species not listed in Part I of Schedule 3 may be lawfully traded in accordance with licences issued by the relevant licensing authorities in England, Scotland and Wales⁴. In most cases, these birds can be traded under general licences, meaning no application is necessary provided the conditions of the relevant general licences can be met. Where these conditions cannot be met, individual licences to trade captive bred birds can be applied for and considered on a case-by-case basis by the relevant licensing authority.

The existing regulatory framework

- 2.6 [European Directive 2009/147/EC](#)⁵ ('the Birds Directive') creates a comprehensive system of protection for all wild bird species naturally occurring in the European Union; it is the primary legal mechanism for the protection of birds throughout Europe. In England, Scotland and Wales, the Birds Directive has been implemented in domestic law through a range of primary and secondary legislation, foremost of which is the 1981 Act. Readers are advised that this Act has been amended on a number of occasions, and some sections may apply differently in Scotland.

³ The regulations currently in force across Great Britain are the Wildlife and Countryside (Ringing of Certain Birds) Regulations 1982 (<http://www.legislation.gov.uk/ukxi/1982/1220/made>).

⁴ The relevant licensing authorities for England, Scotland and Wales are Natural England, Scottish Natural Heritage and Natural Resources Wales respectively

⁵ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:020:0007:0025:EN:PDF> – This version of the Directive consolidates and replaces an earlier version, Council Directive 79/409/EEC of 2 April 1979. The obligations in the Directive have remained the same.

2.7 Article 2 of the Birds Directive places an overarching duty on Member States to maintain wild bird populations⁶, and Article 5 requires Member States to introduce a system of general protection to ensure this. These obligations are achieved primarily through Part 1 of the 1981 Act, in particular section 1 which prohibits the killing, injury, taking or possession of any wild bird, the taking, damage or destruction of their nests, and the taking, destruction or possession of their eggs⁷, unless the person can show that it was lawful to do so (e.g. under an applicable exemption or where permission has been granted by a licence issued by the relevant licensing authority, using powers provided by section 16 of the 1981 Act).

2.8 Article 6.1 of the Birds Directive requires Member States to “prohibit the sale, transport for sale, keeping for sale and the offering for sale of live or dead birds and of any readily recognisable parts or derivatives of such birds”⁸. These obligations are transposed in domestic legislation by way of section 6 of the 1981 Act.

2.9 A 1996 judgment by the European Court of Justice (ECJ) (Case C-149/94, ECR 1996, p.299) (the “Vergy” case) clarified that the obligations on Member States to protect birds do not extend to specimens of those species which have been raised in captivity. However, in England and Wales, section 27 of the 1981 Act states that:

“wild bird” means 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.... any game bird”.

In Scotland, section 27 of the 1981 Act states that:

“wild bird” means any bird of a species which is ordinarily resident in or is a visitor to any member State or the European territory of any Member State in a wild state but does not include poultry;”

These definitions include captive-bred specimens of these species, meaning that the offences in the 1981 Act apply to all specimens of ‘wild birds’, irrespective of whether those specimens are actually wild or captive-bred, unless there is an express exclusion provided, such as is provided by section 1(6) for the offences contained in section 1. In respect of England and Wales this is as follows:

⁶ Article 2 reads: “Member States shall take the requisite measures to maintain the population of the species referred to in Article 1 at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level”.

⁷ Note that there are differences between Scotland, and England and Wales as regards these offences, the most important having been set out in footnote 2.

⁸ This prohibition applies to all wild birds other than those referred to in Annex III Part A in the Directive provided that the birds have been legally killed, captured or otherwise legally acquired. Member States *may* also allow the sale of those species referred to in Annex III Part B so long as they have been lawfully killed, caught or otherwise legally acquired, and the provision has been notified to the European Commission.

“For the purposes of this section the definition of “wild bird” in section 27(1) is to be read as not including any bird which is shown to have been bred in captivity unless it has been lawfully released into the wild as part of a re-population or re-introduction programme”.

In respect of Scotland this is as follows:

“For the purposes of this section, the definition of “wild bird” in section 27(1) is to be read as not including any bird which is shown to have been bred in captivity unless—

(a) it has been lawfully released or allowed to escape from captivity as part of a re-population or re-introduction programme; or

(b) it is a mallard, grey or red-legged partridge, common pheasant or red grouse which is no longer in captivity and is not in a place where it was reared.”

2.10 The sale offences for live birds in section 6(1) of the 1981 Act contain no such express exclusion and are intended to regulate the sale of all live specimens of birds, whether wild or captive-bred, to ensure the protection of wild populations. This system of regulation is intended to deter illegal trafficking of birds taken from the wild. Section 6 does, however, provide specific exceptions to the sales offences for captive-bred specimens of those species that are listed in Part I of Schedule 3 to the Act, or where a licence has been granted to allow sale. These exceptions are covered in more detail in the next section of this paper. Under the 1981 Act, a bird is considered captive-bred if its parents were lawfully in captivity when the egg was laid.

2.11 In practice, it is quite difficult to distinguish between wild and captive-bred specimens of most bird species under normal examination⁹. In order to combat illegal trafficking of wild-taken specimens, and ensure delivery of the general protection required under Article 5 and the specific prohibition of sale required by Article 6 of the Birds Directive, a method of identifying wild specimens from captive bred specimens is required.

2.12 In Britain (and most other European Union Member States) this is usually achieved by placing a ring over the foot and onto the lower leg of a captive-bred bird during the first few days of its life. The ring must be of a suitable size that it cannot be removed once the leg is fully grown without either damaging the ring or injuring the bird.

⁹ We recognise that some birds which have been bred in captivity may differ significantly in appearance compared to wild specimens of the same species. In particular, ‘colour-morphs’ are birds which have been bred to feature colours or other markings which are less likely to appear in the wild. However, due to the difficulty in defining the point at which a bird can be considered a colour-morph (due to some being only subtly different from wild specimens) these birds are currently required to meet the same requirements as other specimens of their species when being traded. This issue is discussed in more detail in paragraph 2.22 below.

Trading species listed under Part I of Schedule 3 – 'Birds which may be sold'

2.13 Captive-bred, live specimens of the species listed in Part I of Schedule 3 (see list below) were commonly traded when the 1981 Act was introduced, and continue to be traded today. For this reason, section 6(1) of the 1981 Act provides a specific exception from the sales offence, allowing these species to be traded without requirement for a licence, provided that they meet the conditions in section 6(5). These are that the bird:

- a) was bred in captivity;
- b) has been ringed or marked in accordance with regulations ; and
- c) has not been lawfully released (or, in Scotland, allowed to escape from captivity) as part of a re-population or re-introduction programme.

2.14 The species listed in Part 1 of Schedule 3 are as follows:

- Blackbird
- Brambling
- Bullfinch
- Bunting, Reed
- Chaffinch
- Dunnock
- Goldfinch
- Greenfinch
- Jackdaw
- Jay
- Linnet
- Magpie
- Owl, Barn
- Common redpoll
- Siskin
- Starling
- Thrush, Song
- Twite
- Yellowhammer

2.15 The regulations referred to under section 6(5) are the [Wildlife and Countryside \(Ringing of Certain Birds\) Regulations 1982 \(SI 1982/1220\)](#) ('the Ringing Regulations')¹⁰. The Ringing Regulations currently apply in England, Wales and Scotland.

2.16 The Ringing Regulations require that birds are ringed with a 'close ring' (defined as "a continuous ring or band, without any break or join, for ringing a bird") of a size no larger than the maximum size for the species specified in Schedule 2 to the Regulations. These rings can be obtained only from the two approved suppliers named in Schedule 1 to the Regulations – the British Bird Council (BBC) and the International Ornithological Association (IOA). The Regulations require that certain information be

¹⁰ <http://www.legislation.gov.uk/ukSI/1982/1220/contents/made>

provided when applying for rings from these suppliers – specifically, regulation 3(2) requires that an application shall:

“(a) be made by the keeper, or prospective keeper, of the bird to be ringed;

(b) provide details of its parents, or prospective parents; and

(c) in the case of a bird in being, specify its age and (where known) its sex”.

Trading other species

2.17 At the time the 1981 Act was drafted, it was envisaged that an ‘individual/personal’ licence would be required to permit the selling of captive-bred birds of other species not listed on Part I of Schedule 3 (or Part I of Schedule 3 birds that did not meet the necessary requirements, e.g. because they lacked the appropriate closed ring). By virtue of section 16 of the 1981 Act, licences can be obtained from the relevant licensing authority on application, and are considered on a case-by-case basis.

2.18 Over time, in reaction to market demands for trade in live captive-bred birds of species other than those listed in Part I of Schedule 3 of the 1981 Act, licensing authorities in England, Scotland and Wales have permitted the trade in live captive-bred specimens of most other bird species that fall within the definition of “wild bird” in section 27 of the 1981 Act (i.e. are resident in or visitors to the European territories of any Member State) by issuing General Licences permitting the trade, subject to certain terms and conditions.

2.19 General Licences can usually be relied upon by anyone who satisfies and follows the conditions of the licence. There is no requirement to submit an application to the relevant licensing authority, or to provide a report of the numbers/species of birds which have been traded under these licences.

2.20 The current General Licences allowing trade in live captive-bred specimens of certain bird species are as follows (web-link included):

- **General Licence WML-GL18** is issued by Natural England in respect of England - http://www.naturalengland.org.uk/Images/wml-gl18_tcm6-24166.pdf
- **General Licence GEN/WCA/011/2014** is issued by Natural Resources Wales in respect of Wales - <http://naturalresourceswales.gov.uk/content/docs/word/apply-and-buy/protected-species-licensing/uk-protected-species-licensing/general-licences-birds/licence-to-permit-the-sale-of-a-certain-captive-bred-native.pdf?lang=en>

- **General Licence 11/2014** is issued by Scottish Natural Heritage in respect of Scotland - <http://www.snh.gov.uk/docs/A1148783.pdf>.

2.21 Nature conservation is a devolved matter, which has led to some differences occurring between the regimes under which captive-bred birds are traded in England, Scotland and Wales. Furthermore, each Licensing Authority is able to include such conditions as they consider appropriate on the General Licences they issue, and may vary these according to species. These differences may be due to a range of factors (e.g. regional conservation issues, variations in law and policy between the Administrations etc.). For most species, licensing conditions which closely reflect the requirements for trading Part I of Schedule 3 species (i.e. a close-ring) have been specified, but each General Licence also includes lists of species to which different conditions apply. For example:

- a) Some species may be able to be sold without a ring (e.g. many web-footed species);
- b) Different/additional requirements may apply for some species before they may be traded (e.g. certain CITES-listed species may be traded with a microchip rather than a ring);
- c) Certain species may not be permitted to be sold other than in accordance with an individual/personal licence obtained from the relevant Licensing Authorities.

Readers are therefore advised to familiarise themselves with the applicable conditions for each bird they sell.

Birds imported from outside the EU

2.22 The European Commission has laid down regulations¹¹ regarding the importation of live birds of certain species from outside the EU. The Animal Health and Veterinary Laboratories Agency (AHVLA) has issued various pieces of guidance regarding the application of these regulations to birds imported directly into Britain from most non-EU countries; the guidance most relevant to this consultation can be found here: <http://www.defra.gov.uk/animal-trade/imports-non-eu/iins/live-animals/iins-birds/iin-cbtc-2/>. It outlines the requirements which must be met before birds are permitted to be imported, including (amongst others) quarantine and examinations by a veterinarian.

2.23 Once these requirements have been satisfied, the imported birds must meet the same requirements as other captive-bred birds of their species before they can be lawfully traded in Britain. Any birds which do not meet the relevant requirements may be traded

¹¹ Regulation (EU) 139/2013

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:047:0001:0017:EN:PDF>

under an individual/personal licence obtained from the relevant licensing authority, applications for which will be considered on a case-by-case basis.

2.24 Birds which are not found naturally occurring in the European territory of a Member State are not covered by the Birds Directive and are not subject to the same trade requirements¹². However, other requirements may apply.

2.25 It is the responsibility of anyone importing birds that have originated from outside the EU in to Britain for onward trade to ensure they comply with the relevant EU and British requirements.

Hybrid birds ('mules')

2.26 Hybrid birds (frequently referred to as 'mules') are derived from parent birds of different species. They are often bred in captivity but rarely occur in the wild. They are bred by keeping two parent birds of different species and opposite sex in close proximity. In most cases, hybrid birds will be visually distinct from their parent species in terms of colour/patterning of plumage, size and other physical characteristics.

2.27 Hybrid birds (and their offspring) fall outside the definition of 'wild bird' in section 27 of the 1981 Act, and are not covered by the Birds Directive, because they are not of a species which is found naturally occurring in the wild. This means the trade requirements of the 1981 Act do not apply to hybrids; they may be traded freely, without the need for a ring or licence, etc.

¹² In Case C-202/94 ([van der Feesten](#)) the European Court of Justice found that birds of a sub-species of a species found naturally occurring in the wild in the European territory of any Member State is protected by the Birds Directive, even if that sub-species is not found naturally occurring.

3. Primary Issue: Selling Imported Live Captive-Bred Birds

Overview

- 3.1. Regulating the trade in captive-bred birds helps to protect wild-living birds of the same species from being captured and sold-on unlawfully.
- 3.2. In some cases, a person wishing to import and sell live captive-bred birds in Britain will be required to apply for individual/personal licences from the relevant Licensing Authority, as they may be unable to comply with the two key British requirements for trading such birds, specifically:
 - a) Species listed under Part I of Schedule 3 will usually be lacking the required rings as they are available only from two British authorised suppliers;
 - b) Other species which would normally be sold under General Licences issued by the licensing authorities often lack the documentary evidence which is a condition of sale under those licences in England and Wales (but not in Scotland).
- 3.3. The key aim of this consultation is to seek views on proposed changes to the regime which imported captive-bred birds will be more likely to be able to be meet. We have termed this the '**Primary Issue**'.

Primary Issue – The background

- 3.4. The current regulatory regime was drafted in 1981-82, and was considered an appropriate and proportionate system of regulating the UK trade in those species most commonly traded, to ensure the protection of wild populations of those species. Since then, the market has expanded to include other species, and licences have been issued by the licensing authorities in response to that demand.
- 3.5. More recently, traders have sought to source birds from breeders and dealers in other European Member States (and also non-EU countries, though to a lesser extent due to additional EU-wide restrictions on importing birds from outside the EU). This has caused us to review whether the current regime continues to be fit for purpose, and to explore possible changes.
- 3.6. The Ringing Regulations specify that captive-bred birds of species listed in Part I of Schedule 3 may only be sold if they are fitted with a ring of the appropriate size which

has been obtained from the approved suppliers upon application and submission of specified information.

- 3.7. The two authorised suppliers (IOA and BBC) have informed Defra that they do not generally supply rings to breeders outside of the UK. It is our assumption, therefore, that breeders will usually ring birds they intend to sell in accordance with the requirements of the country in which they were hatched¹³. In those circumstances, birds of Part 1 Schedule 3 species imported in to Britain from other Member States will not be ringed in accordance with the Ringing Regulations, and consequently they cannot be sold under the exception provided in section 6 of the 1981 Act. Neither may these species be sold under the current General Licences (due to the fact that there is an exception in the legislation allowing for their sale).
- 3.8. As a result, imported birds of species listed in Part I of Schedule 3 can usually only be sold by applying for, and obtaining, an ‘individual’/‘personal’ licence from the relevant licensing authority¹⁴. The licensing authorities consider each application on a case-by-case basis; the majority of cases are straightforward and are processed within 1-3 weeks, whilst more complex cases (e.g. where more information is required from the applicant) a decision may take up to 6 weeks.
- 3.9. For those species permitted for sale under the General Licences issued by the licensing authorities of England and Wales (but not in Scotland), documentary evidence of captive breeding is required to accompany sales. ‘Documentary evidence’ is not a defined term in the legislation or in the General Licences, though guidance is provided as to what sort of information might be considered supportive of a claim of captive breeding by enforcement authorities or a court. For instance, guidance note k of Natural England’s General Licence WML-GL18 states the following:

“Persons intending to rely on the General Licence must be able to demonstrate that birds are legally held and captive-bred, and are advised: to only purchase birds from breeders who are able to satisfactorily demonstrate that they are complying with the relevant regulations; to confirm, insofar as they are able, the bird's identification and age are correct; to check that the bird is correctly ringed, and to always obtain signed and dated written documentary evidence of captive-breeding from the breeder. Documentation should cite the bird's species, ring number

¹³ There may be exceptions; in some instances, birds may be bred with the intention of exporting them. In such cases it seems plausible that breeders would ring the birds in accordance with the ringing requirements of the country they intend to export them to. The IOA and BBC have indicated that they do occasionally supply rings to breeders in other European Member States (usually British citizens living overseas) who wish to sell their birds in Britain and therefore apply for rings so they can comply with British ringing requirements.

¹⁴ More information on applying for wildlife licences can be viewed here: <https://www.gov.uk/managing-wildlife-on-your-land>.

and any other identification mark (e.g. microchips), hatch date, along with similar details for the parent birds, and the breeder's contact details.”

- 3.10. The requirement for documentary evidence to accompany sales under the General Licences issued by the licensing authorities in England and Wales is intended to serve a number of purposes:
- a. Documentation can contribute to the bird-keeper's evidence base if they are challenged, as it helps to show a bird is legally possessed;
 - b. The information may help to provide an 'audit trail' which can assist enforcement authorities when investigating suspected trafficking etc.;
 - c. Documentation may give buyers greater certainty that the bird they are buying was bred in captivity, from parents that were held lawfully;
 - d. For those in possession of (or selling) live birds, the requirements can provide evidence that the birds were bred in captivity and assist in demonstrating that they are lawfully held, if challenged.
- 3.11. However, documentary evidence of captive breeding is not always available for birds imported from other Member States; it is not a requirement for trade under the Birds Directive. The sale of birds taken unlawfully from the wild is prohibited under the Birds Directive (subject to specific exceptions) which implicitly suggests that Member States need to be able to distinguish between captive-bred and wild birds.
- 3.12. Consequently, the main objective of regulating the trade in captive-bred birds is to protect wild birds from illegal trafficking, while also providing a framework to help those who keep birds show that the birds in their possession were bred in captivity (if challenged). The Birds Directive does not specify how this may be achieved, which has resulted in different Member States adopting different approaches. By requiring information about a bird's parentage, proof of captive breeding etc. Britain may be considered as operating a more precautionary approach than some other Member States who do not have such requirements. In those Member States breeders, dealers and keepers are not obliged to provide this information, and it is often not retained. This means the information will not usually be available if these birds are imported into Britain, and without this information/evidence the birds may not be sold on under the current English and Welsh General Licences.
- 3.13. As stated above, the only option currently available to anyone wishing to trade birds which are not compliant with the requirements under **either** section 6 of the 1981 Act (and the Ringing Regulations) **or** the General Licences is to apply for an individual/personal licence from the licensing authorities. We do not expect the position regarding individual/personal licences to change greatly as a result of the proposals in this consultation.

- 3.14. Licensing authorities may request any information they deem necessary to satisfy themselves that a licence may be lawfully granted, The information requested may vary from case-to-case depending on a wide range of factors, such as the status of the species in the wild, whether the bird is close-ringed at all, a bird's plumage etc.
- 3.15. Licensing authorities may request that information regarding a bird's parentage (or other information regarding a bird's origins) is provided when considering an application. This is more likely to be requested where the application is in respect of a bird(s) of a species which is rare and threatened in the wild. Such evidence may be helpful in satisfying the authority that the bird was indeed bred in captivity and that a license may therefore be granted.
- 3.16. Therefore the main goal of this consultation is to seek views on how we may resolve the Primary Issue – by changing the regime regulating the trade in captive-bred birds so that birds imported in to Britain are likely to be able to meet the conditions of sale in most circumstances. The following section details how we propose to achieve this, and offers three different methods by which this could be implemented.

Question 7: Do you think the current approach to regulating trade in captive-bred birds in Britain is:

(Required)

- Too difficult to comply with? []
- Too easy to comply with? []
- About right? []
- Don't know/prefer not say []

Question 8: Compared to similar regimes in other European Member States, do you think the British regime is:

(Required)

- More difficult to comply with? []
- Easier easy to comply with? []
- About the same? []
- Don't know/prefer not say []

Question 9: Please provide any evidence you may have to support your views.



4. Key Proposal to resolve the Primary Issue

Overview

- 4.1. Our main objective is to create a simpler means of regulating the trade in captive bred birds which is easier for those wishing to trade imported birds to comply with, whilst continuing to protect wild birds from being unlawfully traded.
- 4.2. We consider that the best way of achieving this is by implementing measures that enable captive-bred birds to be easily distinguished from wild birds of the same species. The most widely-recognised method of achieving this is by placing a closed ring around the leg of a captive-bred bird shortly after it has hatched, which cannot be removed when the bird has grown.
- 4.3. Therefore, we propose to make changes to the current regime so that captive-bred birds may be traded in Britain provided they meet the following conditions:
 - a) They are of a species that may currently be traded under section 6 of the Act (i.e. Part I Schedule 3 species) or under a General Licence (unless other conditions/exceptions are specified);
 - b) They are ringed in accordance with the requirements of the country in which they were hatched; and
 - c) They are fitted with rings that meet the minimum standard for rings as described in the Convention on the International Trade in Endangered Species¹⁵ (in many cases this is likely to be the same ring as required by the Member State).
- 4.4. Documentary evidence of captive breeding will not be required when trading birds that are ringed in accordance with these requirements.
- 4.5. Any birds which cannot meet these (or other relevant) conditions may be traded under individual/personal licences obtained on application to the appropriate licensing authority, and considered on a case-by-case basis.
- 4.6. We expect that people who trade British-bred birds will not need to significantly alter their practices, though we are seeking views on a range of topics relating primarily to British-bred birds under the 'Further Issues to Consider' section (chapter 6 of this consultation). It is likely that any such changes deemed necessary will be taken forward at a later date.

¹⁵ Commission Regulation (EC) No 865/2006:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2006R0865:20120927:EN:PDF>

Background

- 4.7. While considering amendments to the regime for trading captive-bred birds, it is important that we do not lose sight of the primary reason for regulating trade – the protection of wild birds. It is the position of Defra, the Scottish Government and Welsh Government that, in order to ensure this protection is not compromised, all captive-bred birds should be close-ringed if they are being sold¹⁶.
- 4.8. Closed rings provide a number of benefits which we consider are necessary to ensure wild birds are protected from illegal trade. Rings are usually fitted during the first days of a chick's life, and must be of a suitable size that it may not be removed when the bird's leg is grown. This also helps to prevent rings being fitted to older birds which have been taken from the wild, acting as a good deterrent against such illegal activity.
- 4.9. While a close-ringed bird is not considered definitive proof that a bird is lawfully possessed, it does provide some amount of certainty to buyers, breeders and the enforcement authorities that the bird they are buying/selling/examining was obtained lawfully, as it allows them to quickly distinguish captive-bred birds (ringed) from possible wild-taken birds (not ringed). It also helps those in possession of birds to show that they are lawfully held if challenged.
- 4.10. We also propose that rings should meet certain minimum criteria to provide a good level of certainty that the bird was indeed bred and ringed in captivity. Unfortunately, there is currently no international consensus regarding the ringing requirements that should apply when captive-bred birds are being traded. The most widely-acknowledged standard for bird rings we know of is provided by Article 66.8 of the [Convention on the International Trade in Endangered Species](#)¹⁷ (CITES). It defines the minimum acceptable standard as:
- “a uniquely marked seamlessly closed leg-ring...or band in a continuous circle, without any break or join, which has not been tampered with in any way, of a size which cannot be removed from the bird when its leg is fully grown after having been applied in the first days of the birds life and which has been commercially manufactured for that purpose”.*
- 4.11. This is an internationally-agreed standard which all EU Member States¹⁸ will be familiar with, though only in relation to CITES-listed bird species. We consider the

¹⁶ Web footed species are exempted from the requirement to be close-ringed due to welfare issues associated with ringing such species.

¹⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2006R0865:20120927:EN:PDF>

¹⁸ Due to the EU-wide restrictions on importing birds from non-EU countries (described in paragraphs 2.18-2.21 above), most imports originate from other Member States; therefore our proposals are primarily focused on measures that captive-bred birds from within the EU are likely to comply with.

definition given in Article 66.8 provides an appropriate standard that can be applied to other bird species as well.

4.12. Other countries are likely to have their own ringing requirements for trading captive-bred birds and we recognise that most captive-bred birds intended for trade will be ringed in accordance with the requirements of the country in which they were hatched. In order to ensure that imported captive-bred birds can be traded without the need for individual/personal licences, **we propose to introduce a new 'minimum ringing standard' for trading captive-bred birds in Britain, comprised of two elements:**

a) **Birds must be fitted with a ring which meets the ringing requirements of the country they were hatched in**

and

b) **Birds must be fitted with a ring which complies with the standard set out in Article 66.8 of CITES (i.e. is a uniquely marked seamlessly closed leg-ring...or band in a continuous circle etc.)**

4.13. This requirement would apply to all birds traded in Britain, regardless of where they were bred, if they are of a species which is normally required to be close-ringed under the current regime. This includes all species which may currently be sold by virtue of section 6 of the 1981 Act (i.e. those species on Part I of Schedule 3), and (unless otherwise stated) all birds permitted for sale under relevant General Licences issued by the Licensing Authorities.

4.14. Currently, captive-bred birds of certain species may be sold without rings, or may have different conditions specified for them¹⁹. Therefore the proposed new minimum ringing standard would not apply to them. As nature conservation is devolved (as explained above) variations exist between the current regimes for trading birds; we expect that variations will continue to occur following amendments to address the Primary Issue. Readers should always ensure they are familiar with the relevant conditions for each bird they sell.

¹⁹ Birds on Schedule 4 of the 1981 Act may be permitted to be sold under a General Licence in England, Scotland or Wales, but must meet the requirements of the relevant regulations that apply in that country. In this respect, see The Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) Regulations 1982 (S.I. 1982/1221) (as amended) in respect of England (S.I. 1982/1221); The Wildlife and Countryside (Registration and Ringing of Certain Captive Birds) (Scotland) Regulations 2009 in respect of Scotland (S.I. 2009/419); and The Wildlife and Countryside (Registration, Ringing and Marking of Certain Captive Birds) (Wales) Regulations 2011 in respect of Wales (2011 No. 1653 (W. 188)).

It is not proposed that where these respective regulations permit alternative marking of these birds (in accordance with the specimen marking requirements of Article 66 of Commission Regulation (EC) 865/2006 laying down detailed rules concerning the implementation of Council Regulation (EC) No 338/97 on the protection of species of wild fauna and flora by regulating trade) be changed in any way.

Any trader dealing in these birds needs to ensure that they comply with the terms of the relevant General Licence (see WML-GL18 in respect England, GL 11/2014 in respect Scotland and GEN/WCA/ 011/2014 in respect of Wales) and the relevant regulations mentioned above.

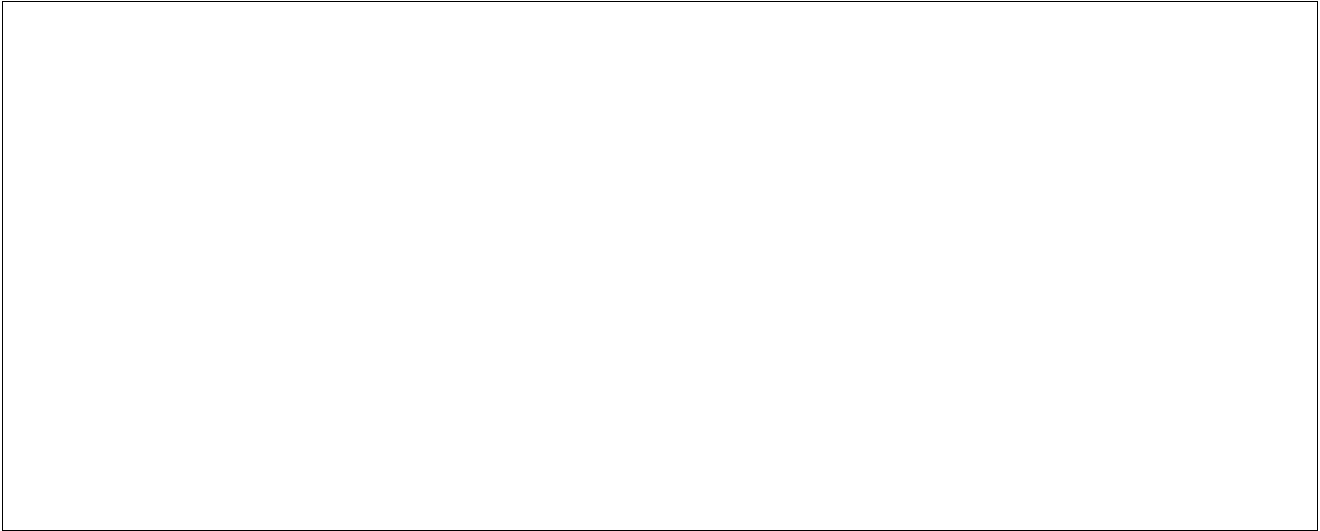
- 4.15. In most cases, we expect that the rings required for trading birds in other countries will meet the minimum requirement, so this proposal is unlikely to introduce an additional burden. However, there may be a small number of countries which have no ringing requirements for trading captive-bred birds, or require rings which do not comply with the proposed minimum standard. Under the proposed approach, birds hatched in such countries could only be traded in Britain under individual/personal licence, or if they are also fitted with an additional close-ring which meets the stated minimum requirement. It is the responsibility of traders to ensure they comply with all relevant regulations when selling (or advertising for sale) a captive bred bird. **We consider this policy approach to be justified in order to ensure a general system of protection for wild bird populations is provided, as required by the EU Birds Directive.**
- 4.16. Documentary evidence will not be required to accompany the sale of captive-bred birds, so long as they meet the relevant ringing requirements. Where a bird does not meet these requirements, it may only be traded under an individual/personal licence obtained from the relevant Licensing Authority; any evidence/information regarding a bird's origins, parentage etc. may help to support, and may therefore be requested by Licensing Authorities in the course of their decision-making. This will be more likely where the application relates to birds of species that are rare and threatened in the wild.
- 4.17. These proposed changes will also apply to captive-bred birds of species protected by the Birds Directive that were hatched outside the EU, although the EU-wide requirements regarding the import of birds from non-EU countries must have been complied with first²⁰. After birds have been lawfully imported into the EU, they may be traded as if they originated within the EU, and will therefore be able to be sold in Britain under the same requirements as other captive-bred birds, It is the responsibility of the person selling such birds to ensure all such requirements have been met.
- 4.18. Under this approach, birds bred in Britain would need to comply with the applicable ringing requirements; currently, these are set out in the Ringing Regulations and the General Licences (depending on which species is being traded, and whether they are being trade in England, Scotland or Wales). The rings specified under these requirements meet the minimum standard set out above, meaning that British-bred birds ringed in accordance with these requirements will continue to be able to be traded under the new regime. We do not expect this will change following amendments to the regime – any rings specified in licences or legislation regarding trading British, captive-bred birds will meet the proposed standard as a minimum.

²⁰ Paragraphs 2.18 to 2.21 explain the current restrictions on importing birds from outside the EU.

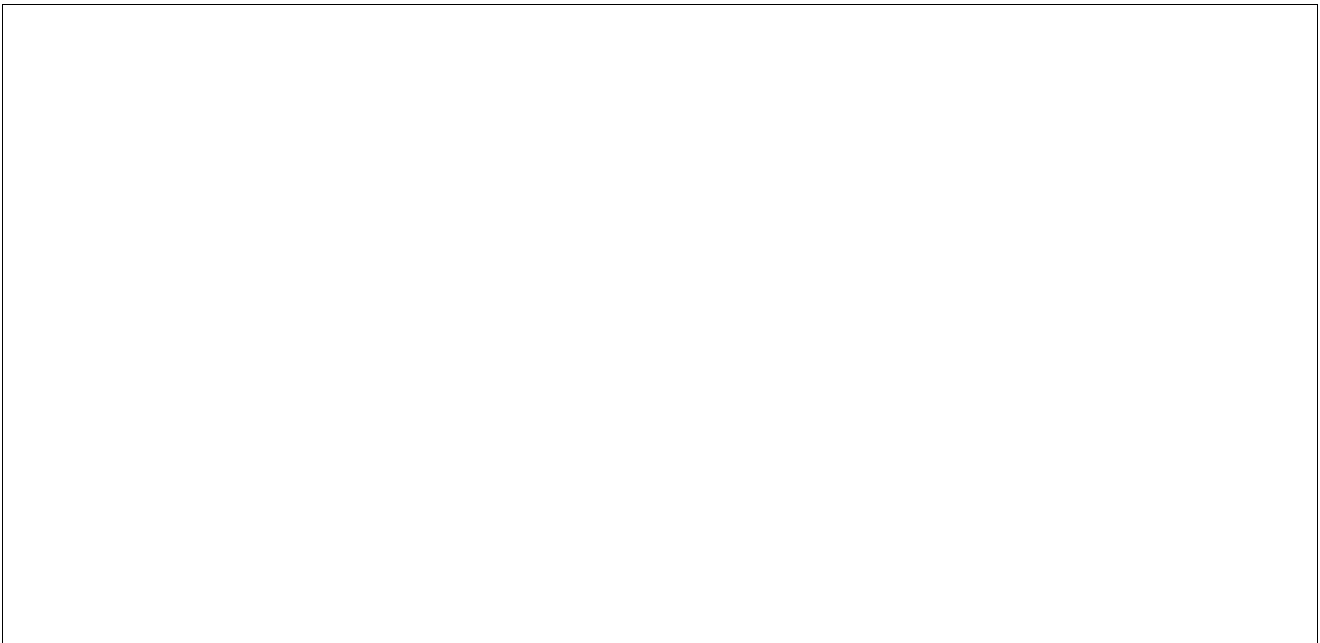
Question 10: Overall, what is your view of the Key Proposal?					
On a scale of one to five, with one being negative and five being positive, what is your view of the key proposal?	1	2	3	4	5

Question 11: What effect (if any) do you think the Key Proposal is likely to have on the numbers of:						
	Large decrease	Small decrease	No change	Small increase	Large increase	Don't know
a) <u>British</u> captive-bred birds <u>legally</u> traded in Britain?						
b) <u>British</u> captive-bred birds <u>illegally</u> traded in Britain?						
c) <u>Imported</u> captive-bred birds <u>legally</u> traded in Britain?						
d) <u>Imported</u> captive-bred birds <u>illegally</u> traded in Britain?						

Question 12: Are you aware of any European Member State(s) where the ringing requirements for trading all/some species of captive-bred birds would be unlikely to meet the proposed minimum standard? If so, which element(s) of the minimum standard are not met (e.g. ring is not closed, not uniquely numbered)?



Question 13: You are welcome to provide any additional evidence or information to support your answer to questions in this section.



5. Options to deliver the Key Proposal

Option 1 - Amend regulation 3 of the Ringing Regulations (SI 1982/1220) to include the proposed new definition of permitted rings

Overview

- 5.1. Changes proposed under Option 1 would mean captive-bred birds of species listed on Part I Schedule 3 would continue to be traded under section 6 of the Act (together with the Ringing Regulations), and most other species would continue to be permitted to be traded under General Licences.
- 5.2. Under this option, we would propose to:
- a) Amend the definition of rings in regulation 3 of the Ringing Regulations so that live captive-bred birds of species listed under Part I of Schedule 3 may be traded provided they are ringed in accordance with the proposed new minimum ringing standard (see paragraph 4.12). The Regulations will specify requirements for British-bred birds, such as maximum ring sizes and authorised suppliers; and
 - b) Ensure that the General Licences permit trade in birds of other species²¹ if they are ringed in accordance with the proposed new minimum ringing standard; and
 - c) Remove the requirement to provide documentary evidence of captive breeding from the relevant General Licences permitting trade in live captive bred birds in England and Wales²².

Option 1 in detail

- 5.3. This option is closest to the current regime, insofar as the Part I Schedule 3 species will continue to be traded under section 6 of the Act (together with the Ringing Regulations), and most other species will continue to be permitted to be traded under General Licences. In both cases, changes will need to be made to the Ringing Regulations and the General Licences to require that captive-bred birds being sold are ringed in accordance with the new minimum ringing standard proposed in paragraph 4.12.

²¹ As defined by each Licensing Authority.

²² As previously mentioned, the relevant General Licence issued by Scottish Natural Heritage no longer includes a requirement for documentary evidence to accompany sales.

- 5.4. For the reasons explained in paragraph 4.16 above, we would also expect the current requirements for documentary evidence to accompany sales of non-Part I Schedule 3 species to be removed from the relevant General Licences issued by Natural England and Natural Resources Wales.
- 5.5. Retaining the existing framework of Ringing Regulations (permitting trade in Part I Schedule 3 species) and General Licences (permitting trade in most other species) provides close consistency with the current regime that end-users (bird dealers, traders, keepers, ring suppliers etc.) are currently familiar with. We do not expect the key elements of the current ringing requirements/procedures for British-bred birds to change significantly under this Option.
- 5.6. Once changes have been made to resolve the Key Issue we will consider what other changes may be needed to address the 'Further Issues to Consider' discussed in chapter 6; the responses received to this consultation will help inform that process. Retaining the Ringing Regulations would mean that any changes to those regulations in the future would only be possible through additional secondary legislation. This has both advantages and disadvantages. Amending legislation can take time to implement due to the Parliamentary and Governmental processes involved, but this also means that the process is transparent and democratic.
- 5.7. This option would mean that the regimes permitting the trade in captive-bred birds will continue to differ depending on whether the species is listed under Part I of Schedule 3 or not. The Licensing Authorities would continue to issue General Licences for species not listed in the Schedule, so long as they are ringed in accordance with new minimum ringing standard proposed above (paragraph 4.12).
- 5.8. Licensing authorities will retain the right to amend the General Licences they each issue as they wish, though in doing so they must have regard to the Regulators Code (see paragraph 5.23 below for more details).

Option 2 - Amend the Wildlife and Countryside Act 1981 so that trade is only permitted through a licensing system

Overview

- 5.9. This option presents an alternative approach. It proposes that the licensing regime overseen by Natural England, Natural Resources Wales and Scottish Natural Heritage would be used to permit trade in captive-bred specimens of Part I Schedule 3 species (in addition to the other species of captive-bred birds they currently issue trade licences for).
- 5.10. To achieve this, the following changes would likely be needed:
- a) Section 6 of the 1981 Act would be amended to remove the exception which allows trade in Part I of Schedule 3 species; and
 - b) The Ringing Regulations would be repealed as they would no longer be required, due to the loss of the exception in section 6 of the 1981 Act; then
 - c) Using their powers under section 16 of the 1981 Act, the licensing authorities would issue new/amended General Licences that allow trade in captive-bred specimens of species currently listed under Part I of Schedule 3, these would likely include similar conditions to the Ringing Regulations (in respect of British-bred birds), and the existing General Licences permitting trade. One of these conditions would be that birds must be ringed in accordance with the proposed new minimum ringing standard.

Option 2 in detail

- 5.11. As outlined in paragraph 2.4 above, section 6 of the 1981 Act prohibits the sale (including possessing, transporting or advertising for the purposes of selling) of any bird of a species that falls within the definition of “wild bird” as defined by section 27 of the Act. This includes captive-bred specimens of those species.
- 5.12. However, as explained above, section 6(1) and (5) together provide a specific exception for captive-bred live specimens of those species listed under Part I of Schedule 3 to the Act. If the birds in question meet the stated criteria, no licence is required for their sale.
- 5.13. Option 2 would involve amending the 1981 Act to remove this exception, As a result the Ringing Regulations and the contents of Part I of Schedule 3 would no longer be required so would be repealed.
- 5.14. By removing the exception to the offences in section 6, traders of captive-bred specimens of Part 1 Schedule 3 species would require a licence before they could be

sold. Therefore we expect that new General Licences would be issued by the licensing authorities, most likely in a very similar format to the current General Licences issued for non-Part 1 Schedule 3 species (see paragraph 2.16).

- 5.15. Licensing authorities may choose to issue a separate General Licence to permit trade in Part 1 Schedule 3 species, or they may issue one licence to permit trade in captive-bred specimens of all species which fall within the definition of 'wild bird' in section 27 of the Act (subject to exceptions to be decided by Licensing Authorities, e.g. certain CITES-listed species may be subject to additional requirements, whilst other species may be permitted to be sold without a ring).
- 5.16. These licences would allow captive-bred birds to be traded freely, without the need to apply for individual licences, provided the conditions of the licence were met. It would be an offence to sell such a bird if the conditions of any relevant General Licence were not complied with. Licensing Authorities are able to include whatever conditions they think are necessary on a General Licence.
- 5.17. The current General Licences permitting trade in captive-bred birds all include conditions that birds of all species (unless otherwise specified) must be fitted with a ring which meets the proposed new minimum ringing standard. We expect this would continue to be the case for any new/amended General Licences issued if this option is pursued.
- 5.18. Ultimately, however, it is for the Licensing Authorities to decide what conditions must be met under the licences they issue. If Option 2 is chosen, it is possible that any new General Licences might include additional conditions for British-bred birds – in particular, similar requirements as are currently laid out in the Ringing Regulations (e.g. maximum ring sizes) for species currently listed under Part 1 of Schedule 3 may continue to be specified in any new General Licences²³. Other changes to address such issues as those discussed in chapter 6 may also be included, though these would likely be introduced at a later date.
- 5.19. In addition to ensuring they comply with the conditions of a licence, traders would also need to consider what information they would need in order to respond to an allegation that a bird they had sold (or were offering for sale) had been taken from the wild illegally. To this end, any new General Licences permitting sale of captive-bred birds would be likely to offer advice on the benefits of keeping suitable documentary evidence of captive-breeding, just as they do currently (e.g. see Note k of Natural England's WML-GL18). However, (as explained in paragraph 3.11) accompanying documentary evidence of captive breeding will not be a condition of the General Licences, meaning birds may be sold without it if they meet the proposed new ringing

²³ These would be more likely to be specified for those species currently listed under Part 1 of Schedule 3 to the 1981 Act, because such requirements are a recognised element of the existing regime. See 'Further Issue (I)' below for more discussion on ring sizes.

requirements (though licensing authorities may reserve the right to request evidence of captive-breeding when considering applications for individual licences to sell birds that cannot be sold under the General Licences for whatever reason).

- 5.20. The key advantage of regulating the trade through the use of licences is increased flexibility and adaptability. Licensing authorities are able to make changes to licences more quickly than government is able to change legislation, meaning they can respond to changes in the market and any other emerging issues (e.g. developments in taxonomy that affect the names and groupings of species).
- 5.21. An additional advantage of this option is that all bird species that are currently sold freely in Britain (whether pursuant to the exception provided in section 6 of the 1981 Act or under General Licence) would now come under the same system of regulatory control.
- 5.22. There are also, disadvantages to this Option. At present, amendment of the list of species in Part 1 Schedule 3 is subject to Parliamentary scrutiny, but under this Option this would no longer be the case; the licensing authorities would have the discretion to make changes without referral to Parliament. As discussed above, Licensing Authorities are also able to include any conditions they consider necessary/appropriate in the licences they issue; this has resulted in variations between the current General Licences permitting trade. Option 2 therefore increases the potential that further differences will be introduced between the regimes regulating trade in England, Scotland and Wales. This could increase uncertainty for those buying and selling captive-bred birds.
- 5.23. However, the Regulator's Code²⁴ requires all regulators (including the licensing authorities who issue wildlife General Licences) to undertake their activities in ways which are: consistent, proportionate, transparent, targeted, and accountable. By adhering to this code, Licensing Authorities will engage with stakeholders likely to be affected by any changes to the regulation within their remit. Furthermore, as the statutory nature conservation advisors to government, there is an open and ongoing dialogue between Natural England, Natural Resources Wales, Scottish Natural Heritage and Defra, Welsh Government and Scottish Government, respectively.

²⁴ <https://www.gov.uk/government/publications/regulators-code>

Option 3 – Expand the exception in section 6 of the Wildlife & Countryside Act 1981 to allow trade in all captive-bred birds currently permitted to be traded under General Licences

Overview

5.24. This option would mean the majority of captive-bred specimens of bird species which are protected by the Birds Directive could be traded in Britain without the need for any licence, regardless of where they were hatched, provided certain conditions are met.

5.25. This would likely be achieved by:

- a) Expanding the current exception in section 6 of the 1981 Act for captive-bred specimens of species listed in Part I of Schedule 3 to also include all species currently permitted for sale under the General Licences.
- b) Including a requirement for birds to be ringed in a manner which reflects the proposed new minimum ringing standard in paragraph 4.12 (either in the Ringing Regulations, if retained, or in section 6 of the 1981 Act);
- c) Withdrawing the current General Licences allowing trade, as they would no longer be required.

5.26. The Ringing Regulations may be retained – most likely until changes are taken forward in response to the ‘Further Issues to Consider’ discussed in chapter 6.

5.27. Birds which do not meet the requirements may be traded under individual licence, considered on a case-by-case basis.

Option 3 in detail

5.28. As explained above, the exception provided in section 6 of the 1981 Act was intended to allow the trade in commonly-traded species of captive-bred birds to continue without the requirement for licences. The introduction of General Licences for most other species of birds has had a similar real-world effect by removing the need for individual licences to be issued in order for trade in those species to continue (provided, in all cases, that the relevant conditions are met).

5.29. Option 3 would unite these regimes by extending the exception in section 6 of the 1981 Act permitting the trade in Part I Schedule 3 species so that it also permits trade in those species which are currently sold under the General Licences.

5.30. Similarly to Option 1, Option 3 would include a requirement for captive-bred birds to be fitted with rings which meet the proposed new minimum ringing standard when being traded (unless otherwise specified, e.g. some species may be traded without rings).

- 5.31. Requirements for non-Part I Schedule 3 species will be similar to those currently contained in the General Licences – ring sizes would not be specified, nor would authorised dealers.
- 5.32. Some or all of the requirements for British-bred Part I Schedule 3 species may be retained within the Ringing Regulations. If so, these are likely to be subject to amendments in response to the points discussed in the ‘Further Issues to Consider’ at a later date (see chapter 6 of this consultation). Alternatively, the Ringing Regulations may be repealed and the requirements for these species provided in the 1981 Act itself – however, this approach would only be taken if we were satisfied that no additional changes were likely to be needed. More information regarding the ‘Further Issues to Consider’ will help us to establish which approach is most appropriate.
- 5.33. As, nature conservation is a devolved matter, a number of differences between the current regimes in England, Scotland and Wales have been introduced over time. Where it is considered appropriate to do so by each Administration, Option 3 would still provide scope for such variations to be reflected in the legislation, as it applies in each part of Britain; each Administration has powers to make its own version of the Ringing Regulations if it so wishes, or to vary the 1981 Act insofar as it applies in their area.
- 5.34. However, consistency in the regimes across Britain would help to provide greater certainty for end-users (i.e. people buying and selling live captive-bred birds) that they are operating within the law regardless of whether they are trading in England, Wales or Scotland. By regulating the trade through legislation, any changes which might be required in the future (e.g. such as those discussed in the ‘Further Issues to Consider’ section at chapter 6) would need to be undertaken through additional amendments to legislation. These would need to be taken forward by the appropriate administration (Defra or the Scottish or Welsh Governments), working in parallel with the other administrations where practicable to maintain consistency in the regime across the country as far as is considered appropriate, in light of the varying factors affecting each Administration. Proposed changes would operate in the same way as they do presently and would require legislation subject to Parliamentary scrutiny before coming in to effect

Question 13: Which option do you prefer?

(Required)

- **Option 1** []
- **Option 2** []
- **Option 3** []

Question 14: What are the main factors that make you favour this option?

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6. Further Issues to Consider

- 6.1. In addition to the Primary Issue, there are five further issues that have either been raised by stakeholders, or which have become apparent during the course of our review of the current regime. We expect that more changes to the regime will be needed to address these concerns – most likely soon after we have implemented measures to resolve the Primary Issue.
- 6.2. We are therefore taking this opportunity to gather information on these issues with the aim of ensuring options for any further changes are developed with a good understanding of stakeholders' needs and preferences. While we hope to be able to introduce these changes without the need for further formal consultation, it is possible that another round of consultation will be required.
- 6.3. It should be noted that many of the issues discussed below are likely to be affected by changes we make to address the 'Key Issue' – some of them may be resolved or no longer be relevant.
- 6.4. The issues discussed below are, therefore, presented primarily as an information-gathering exercise to inform future policy and legislative development. We welcome your views, and any information you can provide that will assist our further thinking.

Further Issue (I) - Maximum Ring Sizes for British-bred birds

- 6.5. The maximum ring sizes set out in Schedule 2 to the Ringing Regulations for Part I of Schedule 3 species are considered by some stakeholders to be too small for some species. For some of these species, the approved ring suppliers (the IOA and BBC) have been issuing rings larger than the maximum sizes specified in the Ringing Regulations, following the agreement of 'interim' measures with government in 1990. We therefore wish to review this issue. Our over-arching goal is to ensure close rings are of a size which poses the least welfare risks to captive-bred birds, while also minimising the potential for rings to be fitted on to birds taken unlawfully from the wild.
- 6.6. Stakeholders have told us that birds from northern Europe (and Britain in particular) tend to be slightly larger than their counterparts from other parts of the continent. A few years after the Ringing Regulations came into force in 1982, stakeholders began raising concerns that, for some of the species listed in Part I of Schedule 3 to the 1981 Act, the maximum ring sizes as specified in Schedule 2 to the Ringing Regulations were too small, and potentially could cause a welfare issue as the birds grow and the ring becomes tighter.
- 6.7. Following discussions in 1990-92, the Department for the Environment (DoE) (now Defra) and the authorised ring suppliers agreed to trial an interim increase in maximum allowable ring sizes for these species. It was intended that this would assess any

increased risk to wild specimens of these species being captured unlawfully, ringed, and then sold on as captive-bred as a result of the increased ring sizes. It was anticipated that Schedule 2 to the Ringing Regulations would then potentially be amended, depending on the findings of the research.

- 6.8. However, the validity of the field trials was questioned by conservation bodies, therefore the DoE said it would undertake further research to assess the potential for the larger ring sizes to be fitted to wild birds, before the increased sizes would be enshrined in legislation. This was intended to take place in 1994, but was delayed. The research was subsequently never taken forward, and the legislation never amended.
- 6.9. In the meantime, the IOA and BBC have continued to issue rings on the basis of the agreed 'interim' sizes. Table 1 below shows the ring sizes listed in the Ringing Regulations, and those currently used by the authorised ring suppliers. For the purposes of comparison, the table at Annex A also includes ring sizes used for these species in a number of other EU Member States.

Table 1 – Comparison of maximum ring sizes

Species listed in Part of Schedule 3 to the 1981 Act	Maximum ring sizes	
	Schedule 2 of the Ringing Regulations	Ring sizes used by the IOA & BBC
Blackbird	4.4	4.45
Brambling	2.7	2.85
Bullfinch	2.5	2.85
Reed Bunting	2.7	2.67
Chaffinch	2.7	2.67
Dunnock	2.9	3.10
Goldfinch	2.5	2.67
Greenfinch	2.9	3.10
Jackdaw	7.1	7.15
Jay	6.0	6.32
Linnet	2.5	2.67
Magpie	7.1	7.15
Barn Owl	9.5	9.5
Common redpoll	2.4	2.55
Siskin	2.4	2.55
Starling	4.4	4.45
Song Thrush	3.9	4.26
Twite	2.4	2.55
Yellowhammer	2.9	2.90

- 6.10. As we are proposing to make changes to the regime, it is appropriate to review this issue. If changes to the maximum ring sizes specified in legislation are taken forward, the way in which this would be achieved differs depending on which of the Options 1-3 (above) we pursue to address the Primary Issue. The main difference is that under Options 1 and 3, any maximum ring sizes would be likely to be specified in legislation. Under Option 2, ring sizes would probably be included in a schedule to new general licences. Alternatively, we have proposed the option of replacing the list of maximum ring sizes with a more general definition of appropriately-sized rings.
- 6.11. Currently, ring sizes are only specified in legislation for species listed under Part I of Schedule 3. As we are considering changes for these species, it is also appropriate to review our approach to ringing other species. Once changes have been implemented to address the Primary Issue, maximum ring sizes will only apply to birds which have been ringed in Britain. Birds imported from other countries will have to comply with the ringing requirements (including any specified ring sizes) of the country in which they were hatched, if they are to be sold in Britain.
- 6.12. Your views are welcomed on the following options proposed to attempt to address this issue.

Option A – Amend the maximum allowable ring sizes

- 6.13. The requirements could be amended to reflect the ‘interim’ maximum sizes currently being used by the IOA and BBC (in line with the approach agreed in 1993) for Part I of Schedule 3 species. Alternatively, we could consider increasing ring sizes for Part I of Schedule 3 species further than this, if considered appropriate and responsible.
- 6.14. The list of maximum ring-sizes have been in use for around 20 years, with no welfare or conservation issues having been brought to the attention of government. This may be considered a good indication that they are fit for purpose.
- 6.15. Legislation should, where possible and appropriate, be underpinned by robust evidence; however, we are not currently aware of any research regarding this issue. Government may consider commissioning some new research, but we would first need to be satisfied that it is a necessary, appropriate, and proportionate use of public funds. Alternative methods of gathering the required information would also be considered.
- 6.16. When looking at this issue, we might also consider which species should have maximum ring sizes specified for them. Identifying the appropriate maximum ring size for all the species currently permitted to be sold in Britain if captive-bred would likely be a very costly and lengthy exercise. A more proportionate approach might be to consider expanding the list of species for which maximum ring sizes are specified to include some further species of birds which are found in the wild in Britain.

6.17. The decision of which additional species should have maximum ring sizes specified for them would depend on the extent to which it would be likely to benefit wild populations of those species. This is likely to be influenced by a range of considerations, such as the species' conservation status, its vulnerability to trafficking, and how commonly it is traded.

Option B – Introduce a more general definition of appropriately-sized rings

6.18. Currently, bird species that are not listed on Part I of Schedule 3 do not have maximum ring sizes specified for them, other than the conditions/requirements contained in licences allowing their sale, e.g. the condition in Natural England's general licence WML-GLA18 that rings to be of a size which may not be removed from the bird's leg once it is fully grown.

6.19. In light of this, consideration should be given to whether a more general definition of the maximum allowable ring sizes might be appropriate; instead of specifying the maximum allowable ring size for each of the species on Part I of Schedule 3, we could rely on a form of wording which ensures that rings are small enough that they must be fitted within the first few days of a bird's life and cannot be removed once the bird has grown, but large enough that they do not cause welfare issues when the bird has fully matured.

6.20. This approach would introduce a greater degree of flexibility to the regime for Part I of Schedule 3 species, and would mean that (if captive-bred birds' legs continue to increase in size e.g. due to selective breeding) no legislative amendments would be required. The responsibility would be on the breeder/trader to ensure that the appropriate size ring is used in every case.

6.21. However, it is possible that this may lead to uncertainty for breeders/traders, and potentially a heightened risk of prosecution, e.g. because they have overestimated what size ring was required (or possibly underestimated, potentially leading to welfare issues as the ring injures the bird). Guidance regarding size specifications etc. may be issued by the authorised ring suppliers, or potentially by an avian-specialist body such as the British Trust for Ornithology.

6.22. In practice, this option may not lead to much change in the practices of most bird-breeders and traders, who may simply continue to use the ring sizes agreed by the DoE in 1993. A possible benefit of this more flexible approach might be those circumstances where a particularly large bird has been hatched, and there is a risk that the ring as currently specified would cause harm or welfare issues as the bird grows. This option could allow the breeder to fit a slightly larger ring to avoid these issues but we would like to hear your views on whether this could increase the risk of birds being taken from the wild.

Question 16: Which (if any) of those species listed under Part 1 of Schedule 3, do you think maximum ring sizes should be specified for?

- All []
- Some []
- None []
- Don't know []

Question 17: Which (if any) of those species not listed under Part 1 of Schedule 3 (but which are required to be ringed when traded) do you think maximum ring sizes should be specified for?

- All []
- Some []
- None []
- Don't know []

Question 18: If you answered 'SOME' to either of the questions above, we would welcome your views on which species you think should have maximum ring sizes specified.

Further Issue (II) – Possible use of Class Licences to permit trade of rare and threatened species

- 6.23. Removing the requirement for documentary evidence from the General Licences in England and Wales has the potential to make it easier for birds which have been taken unlawfully from the wild to be sold as captive-bred birds. Some of the species which can currently be sold under the existing General Licences are rare and threatened, so these are of particular concern.
- 6.24. Therefore, consideration could be given as to whether these rare and threatened species should be the subject of additional protection measures, such as placing them on a Class Licence. Doing so would require those who wish to sell these species to register with the licensing authorities before using the licence, and to supply the authority with an annual record regarding the birds they have sold. We recognise this would be a new requirement for traders, and in some cases it may require them to implement new measures to keep accurate records of the birds they trade.
- 6.25. However, this information would allow the Licensing Authorities to monitor levels of trade and correlate these against population trends in wild birds. If they are able to show clear links between increased trade and decreases in wild birds, they could potentially take steps to address this, such as requiring that those birds be sold only under individual licence. Any such measures would need to be supported by strong evidence.

Question 19: Considering the points raised above, do you think the use of Class Licences to permit trade in some species would be a proportionate response to the potential threat of illegal trafficking?

- Yes []
- Maybe []
- No []
- Don't know []

Further Issue (III) Characteristics of close rings for British-bred birds

- 6.26. The Key Proposal makes it clear that, regardless of which of Options 1-3 is chosen, captive-bred birds may only be lawfully traded in Britain if they are fitted with a ring which meets the ringing requirements of the country in which the bird was hatched, and are fitted with a ring that meets the new minimum standard being proposed (as

used by CITES). In most cases, we envisage that this will mean birds only have to be fitted with one ring, as we anticipate that most countries require rings to be used which meet this minimum standard.

6.27. **For birds which have been captive-bred in Britain** we are able to require that rings also meet certain additional standards, which we could introduce for all birds, or only certain species. The purpose of such additional requirements for British-bred birds would be to increase the level of security that close rings provide, further deterring illegal activity and increasing the protection afforded to wild birds. Introducing such additional requirements for rings for British-bred birds would, in some ways, be analogous to the use of registration numbers and colour-coded tax for motor vehicles.

6.28. Currently, rings for captive-bred birds sold under the General Licences are required to be uniquely numbered, and we expect this requirement will be continued following changes to address the Primary Issue. However, there are no requirements regarding what information this number should contain/signify – it may simply be a random combination of any number of letters and digits. As part of this review, we have the opportunity to introduce new requirements regarding the numbers on rings.

6.29. In the questions below, we're seeking your views on what types of information (if any) you think it would be helpful for rings to include. Requiring rings to feature identifiers that signify information about the bird, it's breeder etc may have potential benefits for security and enforcement, e.g. by providing improved traceability.

6.30. Rings for species listed under Part 1 of Schedule 3 are not currently required to be individually numbered – though in practice most rings are numbered in some manner. Therefore we would welcome your views on whether you think rings for these species should also listed under Part 1 of Schedule 3 should also contain unique identifiers (Question 15). This would confer the same benefits to security and enforcement as it would for other species, but it would be likely to place additional burdens on ring manufacturers, ring suppliers, and those applying for rings.

Question 20: Do you think that captive-bred birds of species listed under Part 1 of Schedule 3 to the 1981 Act should be required to be fitted with a ring that contains a unique identifier?

- Yes []
- Maybe []
- No []
- Don't know []

Question 21: Do you think that unique ring identifiers should signify specified information?

- Yes []
- Maybe []
- No []
- Don't know []

Question 22: Should close rings for British-bred birds include any of the following information?	YES	NO
a. Month and/or year of hatching (e.g. June 2014 would be 06-14)		
b. Country of origin code (e.g. GB)		
c. Size code		
d. Initials of the breeder, or the company		
e. Random number generated by the ring supplier;		

Question 23: Please specify whether any other information or characteristics of close rings which you think should be required for some or all species of British captive-bred birds.

Further Issue (IV) - Providing certain information when applying for rings

- 6.31. Currently, regulation 3(2)(b) of the Ringing Regulations requires that, when applying for rings for British-bred Part I Schedule 3 birds that they intend to sell, applicants must supply the authorised ring suppliers (the IOA and BBC) with information about the parents (or prospective parents) of the birds they wish to ring.
- 6.32. This requirement was originally included with the intention of helping traders, buyers and enforcement officers, by providing greater certainty regarding the origins of the most frequently traded captive-bred birds (i.e. the species listed under Part 1 Schedule 3). However, the IOA and the BBC have advised us that it is impractical for them to request parentage information from people applying for rings, as it is often difficult for breeders to identify the parents of eggs, particularly eggs laid in large aviaries with lots of birds. Subsequently, neither the IOA nor the BBC currently seek this information in their ring-ordering forms²⁵.
- 6.33. There are no requirements in the current regime relating to obtaining rings for other species; instead, the General Licences in England and Wales state that documentary evidence must accompany trades. This requirement was intended to provide a similar level of security. However, we are proposing this will not be included in the regime, as discussed under the Key Proposal section above.
- 6.34. We are therefore reviewing what information can reasonably be provided by breeders, and which also ensures a sufficient level of security for wild birds. Any information that forms part of the requirements should be reasonably obtainable in the majority of circumstances, and must be sought for a reason.
- 6.35. When reviewing this issue, we will also take account of views expressed in response to the previous section, because uniquely-numbered rings featuring certain information about a bird's origins may provide sufficient security and traceability.

Question 24: In your experience, is it difficult to obtain parentage information for chicks?

- Yes – Always []
- Yes - Usually []
- Occasionally []
- No – Rarely []
- No – Never []

²⁵ British Bird Council: http://www.britishbirdcouncil.com/pdfs/BBC_Application%20for%20Rings2013.pdf;
IOA: <http://www.ioa-com-uk.org/wp-content/uploads/2013/11/Ring-Order-Form.pdf>

- No response []

Question 25: If you have previously applied for rings from the BBC or IOA, do you recall if you provided parentage information?

- Yes – I provided it []
- No – I did not provide it []
- I do not remember []
- I have not applied for rings []

Further Issue (V): Requirements for birds with abnormal plumage

- 6.36. Colour-morphs are birds which exhibit plumage colouring or patterning which is not normally found in the wild. Unlike hybrids, colour-morphs are not distinct from the rest of their species (other than their appearance) and so fall within the definition of ‘wild birds’ under section 27 of the 1981 Act. Therefore, colour-morphs are currently required to meet the same requirements as other birds in their species when being sold.
- 6.37. Arguments have been made from within the British fancy to include an exemption from trade requirements for colour-morphs, on the basis that doing so would pose a minimal risk to wild birds due to the distinctiveness of colour-morphs, which are usually only found in captivity – indeed, some colour-morphs may be possible only through selective breeding techniques. Doing so would mean colour-morphs can be sold without a ring or need for a licence, in a similar manner to hybrids. Even with an exception, many colour-morphs do not display their distinctive plumage until they have grown, by which time they may have already been ringed in preparation for trading.
- 6.38. However, not all colour-morphs are equally distinct from the wild specimens of their species – some may exhibit strikingly different plumage whilst others may be much closer in appearance. Before creating an exemption to allow colour-morphs to be traded without a ring we would need to ensure that there is no risk that birds taken unlawfully from the wild could be traded under the guise of colour-morph. Such an exemption would also need to be framed so that it provides an objective, evidence-based definition of the point at which a bird is visually distinct enough to be considered a colour-morph. Currently, we are not aware that any such definition exists.

6.39. There is also evidence to suggest that colour-morphs occur in the wild. Since December 2011, The British Trust for Ornithology (BTO) has been asking the public to submit reports of sightings of wild birds with 'abnormal plumage' via its website²⁶. Nearly 3,000 sightings have been reported so far, with the majority displaying feathers which are paler than normal (Leucism), though other patterns have been reported as well. The current evidence does not give us a strong understanding of the frequency of birds with abnormal plumage in the wild; nevertheless, the fact that they occur at all means that any exemption would need to be worded in such a way that wild birds with distinctive plumage would not be permitted to be traded.

QUESTION 26: Can you estimate what percentage of birds traded in Britain have abnormal plumage?

QUESTION 27: Do you consider an exception to allow colour-morphs to be sold without a ring is necessary and appropriate?

- Yes []
- Maybe []
- No []
- Don't know []

QUESTION 28: Are there any risks and/or benefits of introducing exceptions from any ringing requirements when selling birds with abnormal plumage?

²⁶ <http://www.bto.org/volunteer-surveys/gbw/about/background/projects/plumage>

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7. Size/value of the market

7.1. As most trade in captive-bred birds is being undertaken without the need to apply for an 'individual/personal' licence, we would like to gain a better understanding of the levels of trade, and its approximate value.

7.2. To inform our understanding of the possible impact of any changes we might make to the regime, we would welcome your experience, views and knowledge of the market as it exists currently, and the form it might take once changes come in to force.

QUESTION 24: Can you provide an estimate of the total number and/or value of the birds you traded during the 12 month period from April 2013 to end of March 2014?

<ul style="list-style-type: none">• Number
<ul style="list-style-type: none">• Value (GBP)

QUESTION 25: Can you provide an estimate of the proportion (e.g. 60%) of the total number and/or value provided above was comprised of birds of species listed under Part I of Schedule 3?

<ul style="list-style-type: none">• Number
<ul style="list-style-type: none">• Value (GBP)

QUESTION 26: Can you estimate what proportion of the total number/and or value of birds you traded during that period were bred in another EU Member State?

<ul style="list-style-type: none">• Number
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- Value (GBP)

Annex A

Table showing maximum ring sizes specified by species in the Wildlife and Countryside (Ringing of Certain Birds) Regulations 1982 compared to ring sizes issued/recommended by the IOA and BBC (in Britain), and in certain other Member States

Species (English vernacular name)	Maximum ring sizes used by keepers/recommended by associations (inner diameter in mm)					
	United Kingdom		Continental Europe			
	Sizes specified in Schedule 1 of the Ringing Regulations (SI 1982/1220)	Ring sizes used by the IOA & BBC	NBvV (Netherlands)	German (Europaer)	Vogelwer ein (German)	Hungarian
Blackbird	4.4	4.45	4.50	4.50	4.50	4.00
Brambling	2.7	2.85	2.70	-	2.70	2.50
Bullfinch	2.5	2.85	2.7-3.0	-	2.70	2.70
Bunting, Reed	2.7	2.67	2.70	-	3.00	2.70
Chaffinch	2.7	2.67	2.70	-	2.70	2.70
Dunnock	2.9	3.10	2.80	2.70	2.70	2.50
Goldfinch	2.5	2.67	2.5-2.7	-	2.70	2.50
Greenfinch	2.9	3.10	3.00	-	3.00	2.70
Jackdaw	7.1	7.15	6.50	-	-	6.50
Jay	6.0	6.32	6.00	-	-	5.00
Linnet	2.5	2.67	2.50	-	2.70	2.50

Magpie	7.1	7.15	6.50	-	-	6.50
Owl, Barn	9.5	9.50	10.00	-	-	-
Common redpoll	2.4	2.55	2.70	-	2.50	1.80
Mealy redpoll		2.67	-	-	-	-
Lesser Redpoll	-	-	2.50	-	2.50	-
Siskin	2.4	2.55	2.50	-	2.50	2.50
Starling	4.4	4.45	4.50	4.50	4.00	4.00
Thrush, Song	3.9	4.26	4.00	4.00	4.00	4.00
Twite	2.4	2.55	2.50	-	2.50	2.50
Yellowhammer	2.9	2.90	2.90	3.00	3.00	2.70