

## General & Class Licence Consultation - Annex D

Yellow highlighted sections are subject to proposed or suggested under other sections of the consultation.

# LICENCE (Class)

To kill or take certain wild birds to conserve flora and fauna (including wild birds)



### OVERVIEW

This licence permits registered persons to carry out a range of otherwise prohibited activities against the species of wild birds listed on the licence. This licence may only be relied upon where the activities are carried out for the purpose of conserving flora and fauna (which includes wild birds).

It is a condition of this licence that potential users have taken reasonable and appropriate steps to resolve the problem before relying on this licence.

Registration	Yes
Recording & reporting	Yes
Reference	WML – CLXX

### IMPORTANT

This licence authorises acts that would otherwise be offences under the legislation referred to above. Failure to comply with any of its terms and conditions:

- i. will invalidate the licence, meaning that you cannot rely upon it to carry out an activity that would – except under the provisions of this licence - be an offence. The maximum penalty available for offences 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; and
- ii. may result in your permission to use this licence being withdrawn and/or the refusal to grant future licences.

#### This licence:

- iii. does not authorise any action against a species that is a qualifying feature of a European designated site (Special Protected Area (SPA) or Special Area of Conservation (SAC)) on that site unless specifically authorised in advance by Natural England.
- iv. is not a consent or assent for the purposes of Part 2 of the Wildlife and Countryside Act 1981 (as amended) in respect to Sites of Special Scientific Interest. It is your responsibility to get consent or assent if required.

If the activity that you wish to undertake is not covered by this licence, or if you are unable to comply with any of the terms and conditions which apply to the use of this licence, then you will need to apply to Natural England for a personal licence.

### LICENCE TERMS and CONDITIONS

Legislation	Wildlife and Countryside Act 1981 (as amended) [“the Act”]
Relevant section(s)	Sections 16 (1) (c) & (cb)

Valid for the period	1 January XXXX to 31 December XXXX (inclusive)
Area valid in	All counties of England (landward of the mean low water mark)
Purpose(s) for which this licence is issued	<ul style="list-style-type: none"> <li>• Conserving wild birds, and</li> <li>• Conserving flora and fauna</li> </ul>
What this licence permits	<p>Subject to all the terms and conditions of this licence and solely for the purpose(s) stated above, this licence permits authorised persons:</p> <ul style="list-style-type: none"> <li>• to kill or take wild birds,</li> <li>• to take or destroy eggs and</li> <li>• to take, damage or destroy the nests</li> </ul> <p>of the following wild bird species:</p> <ul style="list-style-type: none"> <li>• <b>Gull, Lesser black-backed</b> <i>Larus fuscus</i></li> <li>• <b>Gull, Herring</b> <i>Larus argentatus</i></li> </ul> <p>The following, normally prohibited methods, are permitted in addition to lawful methods:</p> <ul style="list-style-type: none"> <li>• A semi-automatic weapon, and</li> <li>• Any hand held or hand propelled net to take birds whilst not in flight</li> </ul>
Who can use this licence	<p>The only people authorised to use this licence are those who are registered to use this licence (Registered Persons) and the Assistants of Registered Persons.</p> <p>Please note that no person convicted on or after 1 January 2010 of an offence to which this paragraph applies may use this licence without the permission of Natural England unless, in respect of that offence, they are either:</p> <ol style="list-style-type: none"> <li>a rehabilitated person for the purposes of the Rehabilitation of Offenders Act 1974 and their conviction is treated as spent; or</li> <li>in respect of such an offence, a court has made an order discharging them absolutely.</li> </ol> <p>This paragraph applies to offences under the 2010 Regulations (as amended), the Wildlife and Countryside Act 1981 (as amended), 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).</p> <p>Any person not able to use this licence can still apply to Natural England for a personal licence.</p>
Before using the licence	Anyone proposing to use this licence must, before acting, have read in full and understood all terms and conditions of this licence.

## LICENCE CONDITIONS

1. This licence can only be relied upon in circumstances where the Registered Person has taken reasonable and appropriate steps to resolve the problem, such as scaring and proofing.
2. Anyone acting under this licence must be competent in, and legally able to, undertake the proposed action (e.g. shooting). This includes being able to accurately identify the target species.
3. The Registered Person is responsible for all activities carried out under this licence, including activities carried out by their Assistants.

4. Whilst engaged in work permitted by this licence all persons registered or authorised to act under this licence must have access to a copy of this licence and produce it to any police officer or any Natural England officer on demand.
5. No activities shall be carried out under this licence on a National Nature Reserve or a Marine Nature Reserve except with the prior written permission of Natural England's 'Responsible Officer' for the relevant site(s) (contact details available from Enquiry Service – see below).

### **Welfare**

6. All relevant animal welfare legislation must be complied with at all times, including the Animal Welfare Act 2006.
7. Any birds killed in accordance with this licence must be killed in a quick and humane manner.

### **Recording and reporting requirements**

8. It is a condition of this licence that the Registered Person maintains:
  - (a) a record of all activities carried out under the authority of this licence. This record must include the information required for each Annual Report to Natural England;
  - (b) a record of all incidents where an activity has not been conducted in accordance with this licence and any remedial or corrective action taken, and
  - (c) a record of the names of all persons authorised to use this licence.
9. Records are to be kept for at least two years after the licence expires and are to be made available for inspection by Natural England at any reasonable time.
10. It is a condition of this licence that the Registered Person complies with the reporting requirements specified in Annex A. Reports, including 'nil' returns, must be submitted to Natural England for each calendar year, by no later than 31 January of the succeeding year.

### **Licence compliance**

11. Failure to comply with the terms and conditions of this licence (including the recording and reporting requirements) will, by default, result in the Registered Person no longer being considered registered to act under this licence. In these circumstances the Registered Person may not rely upon this licence until such time that Natural England confirms in writing that its use may resume.
12. Natural England must be informed of all breaches to this licence within 48 hours of the breach occurring. Unless advised otherwise by Natural England, the Registered Person must take the necessary steps to address any breaches or poor practice identified as quickly as possible.

### **Definitions**

13. The following definitions are used in this licence:
  - (a) A "**Registered Person**" is a person who has notified Natural England and been registered to use this licence.
  - (b) An "**Assistant**" is a person assisting a Registered Person. Assistants are only authorised to act under this licence whilst they are under the direct supervision of the Registered Person.
  - (c) "**to kill**" includes accidentally to wound whilst attempting to kill in accordance with this licence.
  - (d) "**humane**" means taking all reasonable precautions to ensure that any killing of birds under this licence is carried out by a single, swift action.
  - (e) "**semi-automatic weapon**" means any weapon which is not prohibited by section 5 of the Firearms Act 1968 as amended and which has a magazine capable of holding more than two rounds of ammunition, where the depression of the trigger discharges a single shot and reloads the next, each subsequent shot requiring a further depression of the trigger.

- (f) “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”.

Issued by and on behalf of Natural England on [date]

## ADVICE

### General information

- a. Ordinarily, this licence will be reissued on 1 January each year. Please note, however, that it can be modified, extended, terminated or revoked at any time by Natural England or the Secretary of State, but this will not be done unless there are good reasons for doing so. You are advised to check the terms and conditions of licences prior to your first use of the licence each year in case of amendments.
- b. This licence conveys no authority for actions prohibited by any other legislation; for example:
- (i) It does not confer any right of entry upon land, and
  - (ii) Firearms: where the action involves the use of firearms, it is the authorised person’s responsibility to ensure that he complies with all relevant legislation.
- c. Persons acting under this licence should have regard to:
- (i) the Environmental Protection (Restriction on Use of Lead Shot) (England) Regulations 1999 (SI 1999/2170). Regulation 3 prohibits the use of lead shot for the purpose of shooting quarry species of wildfowl with a shot gun anywhere in the country and all use of lead shot for shotgun shooting on most wetlands important for waterbirds;
  - (ii) good practice and any legislation affecting the disposal of the carcase(s), and
  - (iii) potential adverse impacts of licensed action on European designated sites, i.e. Special Protected Areas (SPAs) and Special Areas of Conservation (SACs), including impacts from off-site activities. Where there is a risk of harm advice should be sought from Natural England.
- d. The common name of the species given in a licence is included by way of guidance only; in the event of any dispute or proceedings, it is the Latin name of a species only that will be taken into account.

### Animal welfare

- e. Under the Animal Welfare Act 2006 it is an offence to cause any unnecessary suffering to an animal (including birds) under the control of man (section 4 of the 2006 Act). This applies to the humane despatch of captured animals and to the treatment of animals held in nets.
- f. It is the responsibility of each person relying on this licence to use appropriate equipment (e.g. firearm and ammunition) and to ensure that they are competent to use such equipment so as to avoid causing unnecessary suffering.
- g. *Severe Weather and Waterfowl Shooting*: During periods of prolonged severe cold weather users of this licence are asked to show, where appropriate, voluntary restraint in activities (such as shooting and scaring) that could disturb waterfowl (ducks, geese, and waders). The Natural England, Defra, JNCC, and BASC websites will indicate when periods of ‘voluntary restraint’ or ‘statutory suspension’ apply. A statutory suspension temporarily prohibits the shooting of any bird on Schedule 2 Part 1 of the Wildlife and Countryside Act 1981. For more information visit the JNCC website: [www.jncc.gov.uk/page-2894](http://www.jncc.gov.uk/page-2894)

### Registering to use this licence

- h. Only Registered Persons, or persons authorised or supervised by a Registered Person, may act under this licence. Anyone seeking to become a Registered Person must submit in writing (preferably, by email) the following details to Customer Services Wildlife Licensing:
- (i) Their name or (in the case of organisations) the name of a responsible person who will be the “Licensee”; and
  - (ii) Contact address, telephone number and email address (if available).
- Natural England will acknowledge when a person has been registered.
- i. Once registered, a person is entitled to use this licence so long as they satisfy the licence terms and

conditions. Annual re-registration is not required; the annual reporting process will be taken as confirmation of a person's desire to remain registered. Failure to comply with the terms and conditions, including the recording and reporting requirements, will, by default, render registration null and void.

- j. It is the responsibility of Registered Persons to maintain their expertise at an appropriate level to act under this licence and it is also their responsibility to ensure that Accredited Agents and Assistants have appropriate training, experience and instruction to act under this licence.
- k. Anyone seeking to confirm whether a person is registered to use this licence should contact Customer Services Wildlife Licensing.
- l. A person's registration may be revoked by Natural England, for example, if that person breaches the conditions of this licence. In these circumstances Natural England will normally give 28 days' notice of the intention to revoke a person's registration.

### Compliance and enforcement

- m. Natural England checks compliance with licences and the attached conditions. Any enforcement action will be in accordance with Natural England's Compliance and Enforcement Position: [www.naturalengland.org.uk/Images/compliance-enforcement-position\\_tcm6-29090.pdf](http://www.naturalengland.org.uk/Images/compliance-enforcement-position_tcm6-29090.pdf)
- n. A person may be barred from using this licence by Natural England, for example, if that person breaches the conditions of this or any other licence that is issued by Natural England. In these circumstances Natural England will notify the person concerned.

### Contact details for Natural England

*For licensing enquiries:*

**Telephone** 0845 601 4523

**Fax** 0845 601 3438

**Email**

[wildlife.scicons@naturalengland.org.uk](mailto:wildlife.scicons@naturalengland.org.uk)

#### Postal address

Customer Services, Wildlife Licensing, Natural England, First Floor, Temple Quay House, 2 The Square, Bristol, BS1 6EB

*For other enquiries use the Enquiry Service:*

**Telephone** 0845 600 3078

**Email** [enquiries@naturalengland.org.uk](mailto:enquiries@naturalengland.org.uk)

**Web** [www.naturalengland.org.uk/contact/](http://www.naturalengland.org.uk/contact/)

### Other useful sources of information and links

**Feedback and Complaints:** we welcome and value your compliments, complaints, suggestions and comments about our services. Please see our 'Contact us' section for more details. [www.naturalengland.org.uk/about\\_us/contact\\_us/default.aspx](http://www.naturalengland.org.uk/about_us/contact_us/default.aspx)

**Locating protected sites:** To find out about SSSI, SPA and SACs use the MAGIC website [www.natureonthemap.naturalengland.org.uk](http://www.natureonthemap.naturalengland.org.uk)

**Local Record Centres:** to find out where your nearest Local Record Centre is visit the Association of Local Environmental Record Centres website at: [www.alerc.org.uk/find-an-lrc.html](http://www.alerc.org.uk/find-an-lrc.html)

**Legislation:** visit the Office of Public Sector Information website to view the full text of the legislation referred to in this licence: [www.opsi.gov.uk/legislation/about\\_legislation](http://www.opsi.gov.uk/legislation/about_legislation)

## ANNEX A - Recording and reporting requirements

### Records

Each Registered Person must maintain, and keep for at least 2 years beyond the expiry date of this licence, a record of the following information for each activity conducted using this licence (this also includes activities conducted by Assistants acting under their authority):

- Date action taken;
- Activity (i.e. kill or take birds; take, damage or destroy nest; take or destroy eggs);
- Number of birds, nests or eggs affected;
- Bird species affected; and
- Location (county and a 6-figure Ordnance Survey grid reference).

### Reporting

A report, detailing the information stipulated above, including 'nil' returns, must be sent by each Registered Person to Natural England (at the address given below) for the reporting period 1 January to 31 December no later than 31 January of the following year.

Licence Report template reference **WML-LRXX** is to be used for reporting purposes. This WORD document can be completed electronically and is available from the Natural England website or by emailing the licensing team.

Reports should, preferably, be emailed to Natural England, but they may also be posted (please mark 'Licence Returns' and send to the licensing email or postal address given above).

The report template is available from the Natural England website at:

[www.naturalengland.org.uk/ourwork/regulation/wildlife/licences/licences.aspx](http://www.naturalengland.org.uk/ourwork/regulation/wildlife/licences/licences.aspx)

### **Commercial confidentiality**

If you encounter difficulties releasing data due to client / employer confidentiality restrictions then you are advised to remind your client / employer that it is a condition of using this licence that licensing information is reported. Furthermore, the licence may only be used if this condition is met.

To help avoid such difficulties, it is recommended that your contractual terms and conditions make it clear that submitting records to Natural England and other bodies specified in licences is a legal requirement. If a client or employer is not prepared to accept such terms and conditions then you may not use this licence without the **prior** permission of Natural England Customer Services Wildlife Licensing.

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