

RSPB response to Natural England's consultation on general licences

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Preamble

The RSPB welcomes this opportunity to comment on proposed changes to the general licences issued by Natural England under the Wildlife and Countryside Act 1981 (as amended). We have responded to specific proposals, but ask that Natural England consider these preliminary comments as part of the RSPB's submission.

1. General licence principles

We would like to take this opportunity to reiterate the legal framework surrounding general licences. Licences issued under the Wildlife and Countryside Act 1981 (as amended) are bound by the requirements of EU Council Directive 79/409/EEC (the Birds Directive) on the conservation of wild birds. Member states are required to establish (Article 5) a general system of protection for all birds referred to in Article 1 of the Directive, including the prohibition of deliberate killing or capture. They are also required to prohibit (Article 8/Annex IV(a)) all means of non-selective capture or killing including, explicitly, 'traps'. Member states may, however, derogate (Article 9) from the provisions of Articles 5 and 8 *inter alia* in the interests of public health and safety, to prevent serious damage to crops, livestock, forests, fisheries and water, and for the protection of fauna and flora. This may be done only in the absence of another satisfactory solution and if clearly defined terms and conditions are met.

It follows that general licences issued in England must comply fully with Article 9 requirements to be considered lawful within the terms of the Birds Directive. The RSPB accepts the principle of general licences but only if they comply with Article 9 requirements. We believe:

- That wild birds should only be killed or taken as a last resort. Lethal control can only be justified when a) a genuine and serious problem exists, b) non-lethal measures are demonstrably impracticable or ineffective, c) it will be successful in resolving the problem, and d) it will not adversely affect the conservation status of the species concerned. We acknowledge that this final criterion is unlikely to apply when invasive non-native species are concerned.
- That species should only be included on the kill/take general licences when a) there is demonstrable evidence of a serious problem, b) the problem is so widespread that granting individual licences would be impractical, and c) the conservation status of the species will not be compromised by virtue of it being included on a general licence.
- That should these criteria not be met, killing or taking should only be permitted under individual licences, requiring Natural England to scrutinise each application.
- That the UK is not meeting fully its obligation to make an annual report to the Commission on implementation of Article 9 because there is currently no requirement to report action taken under the majority of general licences.

2. Recommendations

The RSPB's principle recommendations for the future development of the general licence system in England are as follows (the supporting rationale for these recommendations is supplied below and, where relevant, in responses to specific proposals):

- **That Natural England undertakes a full review of the species listed on the general licences, to ensure that species are only included where there is demonstrable evidence of a serious and widespread problem, and that the conservation status of the species listed will not be compromised.**
- **That Natural England develops a means of monitoring the levels and methods by which wild birds are killed or taken under general licences, to inform the UK's annual report to the Commission on implementation of Article 9.**
- **That Natural England undertakes a full review of the terms, conditions and guidance notes included on the general licences, to help prevent illegal or misinformed activity.**
- **That Natural England undertakes a review of cage traps, including an examination of their legality under the Birds Directive and the terms and conditions pertaining to their use under general – as distinct from any specific – licences, to help prevent illegal or misinformed activity.**
- **That Natural England adds to all general licences the condition introduced by the Scottish Government in 2008, preventing anyone convicted of an offence under wildlife protection or animal welfare legislation from using a general licence.**

2.1 Review of species listed on the general licences

The RSPB welcomes Natural England's proposal to remove great black-backed gull and herring gull from certain general licences, as a precursor to a full review of the species listed. This review should consider the following:

- That species should only be included on the kill/take general licences where there is demonstrable evidence of a serious problem and where the problem is so widespread that granting individual licences would be impractical. For example:
 - There is no evidence to suggest that any of the species listed on WML Gen-L08 (conserving wild birds) has caused the decline of a bird species in England. Where the killing or taking of wild birds is required for conservation purposes, we believe that this can only be justified on a site-by-site basis and therefore favour individual licensing.
 - We are not aware that any corvid species has been shown to present a threat to public health or safety (WML Gen-L07 – preserving public health or safety).
 - Neither are we aware of evidence to suggest that collared dove and jackdaw are present in sufficient numbers on aerodromes as to warrant inclusion on WML Gen-L06 (preserving air safety).

The review should therefore assess, for each species, (a) the evidence for serious damage occurring, (b) the scale and frequency of that damage, (c) the effectiveness of non-lethal techniques, including habitat and environmental solutions and (d) the effectiveness of lethal techniques in addressing the problem and preventing serious damage.

- The conservation status of the species. We welcome the proposal to remove herring gull from the majority of the kill/take licences owing to its conservation status, and urge Natural England to make this a key consideration for all species listed or being considered for listing on general licences (see our response to Question 9.1).
- The status of hooded crow with regard to licensing, now that it is considered a separate species to carrion crow.

2.2 Monitoring and reporting

We are disappointed that the consultation contains no proposals to improve monitoring and reporting of the numbers of birds killed/taken under general licences. We believe that in order for the UK to meet its reporting obligations under Article 9 of the Birds Directive, Natural England must as a matter of urgency devise a means of monitoring the levels and methods of kill/take activity undertaken under all general licences.

2.3 Review of licence terms and conditions and guidance notes

We believe that:

- Each general licence should state that persons relying on it must be able to **demonstrate** that a serious problem exists, that there is no satisfactory alternative to

lethal control ¹, and that lethal control will be effective in solving the problem. The current kill/take licence to conserve wild birds (WML Gen-L08) does not refer to any of these criteria, an omission which we hope Natural England will rectify.

- Better guidance is needed to define the activities considered appropriate under the general licences, WML Gen-L08 in particular (see our response to Question 12.2).

2.4 Cage traps

Several of the general licences permit the use of cage traps. We remain concerned that the use of various designs of cage trap, and the threat these pose to non-target species, may be contrary to Article 5 of the Birds Directive (prohibits the deliberate killing or capture of birds covered by Article 1) and Article 8 (prohibits non-selective capture of the same). We are disappointed that this consultation omits any consideration of cage traps and recommend that these issues be fully reviewed.

As an interim measure, we would like to see improvements made to the conditions which apply to the use of cage traps. These include:

- The tightening of the condition guiding the state of cage traps when they are not in use, to ensure that they cannot easily be reset, e.g. by removing the access door to fixed cage traps, or by storing portable cage traps. This is to prevent the incidence of birds entering unused traps and starving to death, which has been reported in a variety of species.
- The addition of a condition to ensure that cage traps are inspected from a sufficiently near distance so that smaller birds caught in a trap may be detected
- The addition of a condition, on all licences where the use of cage traps is permitted, requiring users of the licences to maintain records of all birds caught in the traps for submission to Natural England. This is already a condition of WML Gen-L06. In view of the widespread concerns regarding non-target capture, misuse and abuse of cage traps, these records would inform future decisions on regulation.
- The addition of a condition to ensure that the trap user's contact details are fixed to the trap, to allow the authorities to locate users during enquiries.

All the above now apply in Scotland, except the requirement to keep records of birds caught (although there is some limited provision for this in some licences). This supports the case for their rapid introduction in England.

2.5 New condition to withhold licences from those convicted of wildlife crime

The RSPB welcomed the Scottish Government's decision to introduce a new condition to the general licences in Scotland which prevents anyone convicted of an offence under

¹ Section 16 1A to the Wildlife & Countryside Act 1981 (as amended) states that the licensing authority (as opposed to the licensee) must be satisfied that there is no other satisfactory solution. We question how, under the current system for operating kill/take general licences (i.e. in the absence of any registration or reporting requirement), Natural England can be confident in each instance that no other satisfactory solution existed and the legal tests were met.

wildlife protection or animal welfare legislation from operating under those licences (see, for example, Condition 3 of Scottish Government General Licence No.1/2009). We believe that this will act as an effective deterrent to would-be offenders and is likely to lead to higher levels of compliance with licence terms and conditions, and therefore urge Natural England to follow the precedent set by the Scottish Government.

Main response

THEME: OBLIGATIONS TO PROTECTED SITES

Question 1: Do you agree with Natural England's proposal to address this concern by drawing attention to the existing obligations on Statutory Undertakers?

Yes – the RSPB welcomes any attempt to highlight and clarify the legal obligations of licence users.

THEME: NON-NATIVE SPECIES

Question 2: Do you agree with our proposal to use regulatory measures to facilitate the control of invasive non-native species?

Yes BUT...

The RSPB believes that the introduction of non-native species is one of the principal threats to biodiversity, and we welcome proposals aiming to reduce the number and severity of non-native species introductions in England and beyond. We are supportive of the Invasive Non-Native Species Framework Strategy for Great Britain, and will contribute actively to the development and implementation of the Strategy.

We agree with Natural England's proposal to adopt, as a principle, a presumption that regulatory controls, including general licences, may be used to support the control/eradication of invasive non-native species considered a threat. However, we believe that four of Natural England's five general principles of licensing (outlined on page 3 of the consultation document) still apply in such circumstances², and we are concerned that the specific proposals outlined below do not fulfil these criteria. It is essential that if such measures are to be taken to facilitate the control of an invasive non-native species, there must be good evidence that a genuine, widespread problem exists or could occur as a consequence of inaction, **and** Natural England, as the regulatory authority, must be confident that taking such measures will contribute towards a clear, cohesive strategy for dealing with that species. In the absence of such a strategy, an individual licensing approach remains the most appropriate course of action.

Question 3.1: Do you agree with our proposal to add Ring-necked and Monk Parakeets to the general licence issued for the purpose of conserving wild birds (s.16(1)(c) of the Wildlife and Countryside Act 1981)?

² As noted previously, we acknowledge that the final criterion, relating to conservation status, is unlikely to apply where invasive non-native species are concerned.

No

Though we strongly support a robust approach towards identifying and addressing threats posed by invasive non-native species, we question the addition of these two species to this licence given the current lack of evidence to suggest that they pose a widespread threat to the conservation of wild birds in England. We are concerned that this could set a precedent for lowering the evidence requirements when considering adding native species to general licences. We question how this proposal complies with the five general principles Natural England applies to its licensing activities (outlined on page 3 of the consultation document): we fail to see how, at present, there is 'a genuine problem to resolve' or that 'the licensed action will contribute to resolving the problem'.

We are concerned that adding these species to the general licence, in the absence of a Government strategy for these species, will convey the wrong message. We believe that the use of regulatory controls (as outlined in Proposal 2) is only appropriate where such use supports Government policy – at present, the proposal to add the two parakeet species to this licence is presumptuous.

Adding these species to this licence at this time carries the risk of inappropriate action being taken under cover of the licence. Should evidence that ring-necked and/or monk parakeets pose a widespread threat to native birds emerge, we would support a review of their protection status as part of a considered Government response, as happened with North American ruddy ducks once eradication had been agreed as the preferred outcome. We agreed that measures to relax this species' protection status were in keeping with a policy of eradication.

Relevant concerns regarding the Q&A document supplied with the consultation:

- The answer to Question 6 (that the two parakeet and two geese species are being added to some general licences 'because of the problems they pose for native wildlife') is misleading. There is no evidence to suggest that they pose a widespread threat to the conservation of wild birds in England.
- Question 7: '...and neither in most cases would shooting the birds in your back garden be considered permissible under one of the licences.' This would be an entirely inappropriate use of the general licence – we ask Natural England to clarify the meaning and intention of this statement (NB the consultation package would have benefited from a copy of all draft licences).

Question 3.2: Do you agree with our proposal to add Canada Geese and Egyptian Geese to the general licence issued for the purpose of conserving wild birds (s.16(1)(c) of the Wildlife and Countryside Act 1981)?

No

Though we strongly support a robust approach towards identifying and addressing threats posed by invasive non-native species, we question the addition of these two species to this licence given the current lack of evidence to suggest that they pose a widespread threat to the conservation of wild birds in England. We are aware that Canada geese may cause habitat damage in some circumstances, but Natural England's own Technical Advice Note TIN009 states that 'there is little hard evidence that Canada geese cause significant problems by competing directly with other wildlife.' We believe that the current provision – i.e. the granting of individual licences to deal with specific problems – remains the most appropriate approach. Should evidence that a widespread threat to native birds exists emerge, we would support a review of their protection status as part of a considered Government response.

As stated in our response to 3.1, we are concerned that adding these species to the general licence will convey the wrong message, carrying the risk of inappropriate action being taken under cover of the licence. Permitting control of these species during the close season may also lead to negative impacts upon breeding non-target species, e.g. through disturbance.

Question 4.1: Do you agree with our proposal to permit the killing/taking of Ring-necked and Monk Parakeet species for the purpose of preventing serious damage to crops and disease (s.16(1)(k) of the Wildlife and Countryside Act 1981)?

No.

We are aware that ring-necked parakeets in England may cause damage to crops at some locations, but we are unaware of any evidence of serious damage caused by monk parakeets (the consultation document lacks any licensing statistics to inform us). Given that serious damage caused by these parakeets would therefore appear to be limited at present, the current provision – i.e. the granting of individual licences to deal with specific problems – remains the most appropriate approach, particularly as this will allow Natural England to continue to collate information on the impacts of these birds by means of licence returns.

Question 4.2: Do you agree with our proposal to issue a separate licence for this purpose for invasive non-native species?

No comment.

We do not foresee a need for this licence at present, but should a scenario arise which would require this course of action, this approach would seem sensible. It must be clear

to users that for all other (native) species, non-lethal methods such as scaring must be shown to be ineffective or impracticable before resorting to lethal control.

Question 5.1: Do you agree with our proposal to permit the killing/taking of Monk Parakeet species under a general licence for the purpose of preserving public health or public or air safety (s.16(1)(i) of the Wildlife and Countryside Act 1981)?

No

Given the small number of monk parakeets currently resident in England, it is not appropriate at this time to add this species to a general licence to preserve public health or safety. Should the population expand, this position should be reviewed, but a 'class' licence would be most appropriate, i.e. available only to energy companies affected (if, indeed, damage to energy infrastructure is deemed a public health/safety issue).

Though the response form suggests there is a proposal to add monk parakeet to the air safety licence, the consultation document makes no reference to it, so we offer no opinion.

Question 5.2: Do you agreed with our proposal to issue a separate licence for this purpose for invasive, non-native species?

No comment.

We do not foresee a need for this licence at present, but should a scenario arise which would require this course of action, this approach would seem sensible. It must be clear to users that for all other (native) species, non-lethal methods such as scaring must be shown to be ineffective or impracticable before resorting to lethal control.

THEME: REVIEW OF SPECIES LISTED

Question 6.1: Do you agree that Great Black-backed Gull should only be listed on the general licence permitting take/kill birds for the purpose of preserving air safety? Please provide evidence in support of your view.

Yes/No

We welcome Natural England's commitment to reviewing the species listed on the general licences and view the current proposals to remove two gull species as a proportionate action pending a wider review. We believe that species should only be included on general licences where there is demonstrable evidence of a serious problem

and where the problem is so widespread that granting individual licences would be impractical. We do not believe that the continued inclusion of great black-backed gull on these licences is justified due to a lack of evidence for the species causing serious problems. We support the proposal to remove this species from the kill/take licences for preventing serious damage and disease, preserving public health and safety and conserving wild birds.

The consultation document lacks any evidence to support the need to retain great black-backed gull on the air safety licence (e.g. licence returns, bird strike records). In the absence of such evidence to inform our decision, we must oppose this aspect of the proposal – great black-backed gull should be removed from all of the kill/take licences. Specific problems can be dealt with via individual licenses.

Question 6.2: Do you agree that the Herring Gull should only be listed on the general licences permitting
a. the killing/taking of birds for the purpose of preserving air safety, and
b. the destruction of eggs and nests for the purpose of preserving public health and public safety?

Please provide evidence in support of your view.

a) **Yes/No.** We support Natural England’s proposal to remove herring gull from the kill/take licences. Reviewing the need to include herring gull on the general licence was identified by Natural England and others as a sign-posting action under the UK Biodiversity Action Plan, and this proposal goes some way towards achieving this aim. We believe that it is inappropriate for any species of conservation concern – particularly a species qualifying for red-listing owing to a decline of more than 50% in the last 25 years – to be listed on a general licence and therefore subject to (effectively) unregulated killing. However, as per our response to 6.1, in the absence of any evidence in the consultation document to support the need to retain herring gull on the air safety licence, we oppose this aspect of the proposal. Herring gull should be removed from all of the kill/take licences, and specific issues dealt with via individual licenses.

b) **No.** As outlined in the consultation, herring gull is now listed as a UK BAP priority species and meets the qualifying criteria for red-listing as a bird of conservation concern. A significant proportion of herring gulls could be affected by continued, unregulated control in urban areas (13.5% of the herring gull population in Britain and Ireland nest on roofs³). In order to maintain an appropriate and consistent approach towards this species, and to fulfil the UKBAP sign-posting action, we believe that all actions to

³ Mitchell, P I, Newton, S F, Ratcliffe, N, Dunn, T E (2004) *Seabird populations of Britain and Ireland: results of the Seabird 2000 census (1998-2002)*. T & AD Poyser, London.

control herring gulls or prevent their successful breeding should be dealt with via individual licenses, providing all non-lethal measures have first been shown to be ineffective.

Question 7.1 Do you agree with our proposal to issue a limited general licence permitting the taking/killing of House sparrow, Starling, Robin and Blackbird in food production/handling premises for the purpose of preserving public health or public safety (s.16(1)(i) of the Wildlife and Countryside Act 1981)?

No

We believe that it is inappropriate for species of conservation concern to be listed on kill/take general licences. House sparrow and starling – both red-listed, BAP priority species – were removed from the licences by Defra in 2005 in response to significant and sustained population declines. These declines continue, so we question both the rationale and justification for this proposal and are concerned by the precedent it may set.

Natural England should instead issue clear guidance to those who may face such a predicament (i.e. owners/managers of specified food premises) that an individual licence will be issued rapidly if they can demonstrate that the sequence of actions specified in this proposal has been followed, and that adequate proofing has been installed.

Question 7.2 If such a licence is issued, do you agree that it is appropriate to require users of the licence to register their first use of the licence with Natural England and to submit written records of action taken under the licence?

No comment.

Though we do not agree with the proposal to issue this particular licence, we would welcome the introduction of a requirement to register first use and submit written records of action for all kill/take general licences, in keeping with the UK Government's obligations under Article 9 of the Birds Directive.

THEME: SALES OF BIRDS

Question 8.1: Do you agree with the proposal to consolidate the sales licences?

Yes, but...

We are concerned that this derogation is very broad, since the number of species which may be sold is potentially unlimited, and it thereby represents a departure from the principles of the Birds Directive and the intent of the Wildlife and Countryside Act 1981 (as amended). For captive-bred birds, the WCA restricts such trade to a limited number of common and commonly kept species (Schedule 3 Part I). The sale of dead birds and their derivatives is restricted explicitly (there is no specific derogation included in the Birds Directive for taxidermy). Widespread trade in wild birds and their derivatives can only be consistent with the Birds Directive (if at all) if it is fully and properly regulated. We contend that permitting sales via a general licence does not fulfil this requirement, and would welcome Natural England's view on how the sales licences comply with the Birds Directive.

Question 8.2: Do you agree with the proposal to continue to allow the birds listed on the appendix (and their eggs) to be sold without a ring?

No.

It is very important that ringing/markings is carried out to ensure that only authentic captive-bred birds are traded. Though we appreciate that the fitting of close-rings is not always practical, alternative means of marking (e.g. micro-chipping) should be investigated and deployed, perhaps at time of capture for sale.

Question 8.3: Is the list of species that are exempt from ringing correct (see draft licence for list)? If you disagree, please state why and provide evidence.

No

As stated in 8.2, we do not believe that any bird sold under this licence should be exempt from ringing/markings. Furthermore, it is not appropriate for common scoter to be (a) included on Appendix 3 (i.e. exempt from ringing) or (b) permitted to be sold under this general licence at all, as it is a red-listed species of conservation concern.

Question 9.1: Do you agree with our proposal that no species be excluded from sale under the general licence on the grounds of risks to their conservation status from illegal take from the wild? If you disagree, please provide grounds and evidence for your position.

No.

We do not agree with this proposal, and would welcome Natural England's view as to how it complies with the Birds Directive (see our response to 8.1). A recent report⁴ commissioned by Vogelbescherming Netherlands (the Dutch Birdlife partner) concluded that the relaxation of the law relating to sale in the Netherlands led to a large increase in the variety of species available for sale, a large percentage of which were suspected to have been taken illegally from the wild.

Furthermore, we believe that some species should be *added* to this list. The species excluded recently from Schedule 4 are prime candidates for listing under Appendix 1A of the proposed licence (i.e. birds which cannot be sold for conservation reasons) and, if the licence remains in force, we ask that they are added. These species are:

Bunting, ciril	Kite, red	Warbler, Cetti's
Bunting, Lapland	Oriole, golden	Warbler, Dartford
Bunting, snow	Redstart, black	Warbler, marsh
Chough	Redwing	Warbler, Savi's
Crossbills (all species)	Serin	Woodlark
Fieldfare	Shorelark	Wryneck
Firecrest	Shrike, red-backed	
Harrier, hen	Tit, bearded	
Hobby	Tit, crested	

As stated in our response to 8.2, it is not appropriate for common scoter to feature on Appendix 3 as it is a red-listed species of conservation concern.

Question 9.2: Do you agree that Ruddy Duck and Egyptian Goose should continue to be excluded from the general licence permitting sales on the grounds of potential risks to native species, and that Canada Goose should be added to the list of exclusions?

Yes (notwithstanding comments on legality of this licence – see our response to 8.1). It is essential that ruddy ducks in particular should continue to be excluded from the general licence permitting sales as they are subject to a Defra-led eradication programme which may be compromised should further releases/escapes from captivity occur. Defra has consulted on a proposal to add ruddy duck to an Order to ban their sale – should this be implemented, this proposal will be irrelevant for this species.

⁴ Van Kreveld, A (2007) *Bred in a trap: an investigation into illegal practices in the trade in wild European birds in the Netherlands*. Stroming BV, Nijmegen.

We believe that regulation of trade in waterfowl may warrant a broader review, given the significance of this pathway for the introduction and subsequent establishment of non-native species.

Question 9.3: Do you agree that sales of Eagle Owls under the general licence should be subject to a registration scheme on the grounds of potential risks to native species?

Yes but...

We would accept this proposal as a minimum, but prefer the option proposed in 9.4 (see below).

Question 9.4: Do you believe that other bird species should be added to the list of exclusions on the grounds of potential risks to native species? Please consider the possible candidates suggested above; you may suggest other species and explain why, providing evidence

Yes.

We support the addition of the proposed species to the list of exclusions for sale on the grounds of potential risks to native species (though the consultation document lacks a rationale for most of the species proposed). We would welcome this approach for eagle owl (see our response to 9.3 above). We agree that Natural England should be regulating more closely the sales of certain non-native species, as informed by the GB Non-Native Species Strategy and species-specific risk assessments.

We suggest that Indian house crow (*Corvus splendens*) be added to the list of exclusions; this species has proved to be highly invasive in countries where it has been introduced and has been identified as a species of concern by the GB Non-native Species Secretariat. Black swan (*Cygnus atratus*) has also been identified as a threat to native species⁵ so would also be a pertinent exclusion.

Question 10: Do you agree with our proposal that sales of dead Barnacle Goose and White-fronted Goose (Greenland race) be permitted under the general licence?

⁵ Banks, A N, Wright, L J, Maclean I M D, Hann, C, Rehfisch, M M (2008) *Review of the status of introduced non-native waterbird species in the area of the African-Eurasian Waterbird Agreement: 2007 update*. BTO Research Report No. 489. BTO, Thetford.

We question this proposal and recommend strongly that no decision be made until the original rationale for the exclusion of these two species is clarified. We do not agree that there is no rationale for this exclusion on conservation grounds: both species are listed on Annex I of the Birds Directive, and white-fronted goose (Greenland race) is a declining sub-species and is now a priority of the UK Biodiversity Action Plan. Though the majority of the UK's wintering population of white-fronted goose (Greenland race) occurs in Scotland, there is a small population in the North of England (and one in Wales): we would not wish to see any of these populations threatened by de-regulation of sales. Barnacle geese are not listed on Schedule 2 Part I, so we question how frequently carcasses are likely to become available, and therefore how this would warrant a *general* licence. We would welcome further clarification from Natural England, but suggest that sale via individual licences remains the most appropriate approach.

Question 11.1: Do you agree that Natural England should provide guidance on what might constitute suitable documentary evidence?

Yes.

Question 11.2: Do you agree that the wording we propose is appropriate? If not, please provide alternative wording.

Yes, but...

We agree with the content but rather than 'guidance', this must be a requirement of the licence and re-written/structured accordingly. We request that the correct completion of an online form – requiring all fields (generated from the points listed in the proposed Note) to be completed before the licence can be relied upon – becomes a condition of the licence.

The wording of the draft licence itself requires clarification and strengthening: 'accompany' (paragraph 4 of the draft licence) should be defined to require that the signed and dated original documentary evidence travels with the bird, whilst the seller retains a paper copy.

THEME: UNDERSTANDING AND AWARENESS OF THE GENERAL LICENCES AND THEIR CONDITIONS

Question 12.1 Do you believe that there is sufficient widespread understanding of the General Licences, the circumstances in which they may be used and the conditions

that apply? Please provide evidence in support of your answer where possible.

No.

The RSPB fields numerous calls every year from members of the public, industry and local authorities seeking assistance in interpreting the licensing system and their legal obligations. Though it is perhaps not surprising that members of the public may need assistance with these issues, it is a concern when those who may rely frequently on the general licences as part of their work (e.g. pest controllers) are failing either to read or understand – or choosing not to comply with – the terms and conditions of the licences. This demonstrates that there is neither sufficient widespread understanding of the general licences, nor sufficient conviction that reprisals will follow if terms and conditions are not obeyed.

As outlined in the introduction to our response, misuse of cage traps continues which, in the cases where this is not wilful *abuse*, suggests that users are not sufficiently versed on the conditions that apply to their use. The majority of cases to which the RSPB's Investigations Unit are alerted relate to misuse. They also encounter incidents that demonstrate a lack of familiarity with the requirements and correct procedures relating to quick and humane killing.

Question 12.2 Do you have any suggestions as to how we could raise the level of awareness?

The RSPB has long been calling for the terms and conditions of the general licences to be strengthened so that they state clearly the obligations of licensees and meet the requirements of the Birds Directive. The introduction of each licence should state explicitly the purpose of the licence; should provide clear guidance for licensees on when action under the licence is appropriate; and should stress that failure to comply with the terms and conditions of the licence constitutes an offence under the Wildlife and Countryside Act 1981 (as amended), specifying which sections are contravened. The introduction to kill and take licences should stress that licensees must be able to demonstrate that a problem exists, that there is no satisfactory alternative to lethal control, and that lethal control will be effective in solving the problem. This would help to prevent illegal or misinformed activity.

The general licence permitting killing/taking to conserve wild birds would benefit greatly from an explicit explanation of purpose. We firmly believe clearer guidance is needed to define the circumstances under which action is deemed necessary to 'conserve wild birds', particularly as there is no evidence to suggest that any of the species listed currently on this licence have caused the decline of a bird species in England. For

example, we do not feel that widespread control of magpies under licence (i.e. killing in gardens under the guise of conserving wild birds in the countryside) is appropriate, yet this is a common practice. It would be straightforward to exclude use in domestic gardens from the general licence, on the understanding that any specific problem could be addressed through individual licensing. It remains uncertain whether the intention of this general licence is to permit the killing of magpies and other corvid species to protect gamebirds, since the purpose of such activity is to produce a shootable surplus of game and not their conservation. We question how licensing of this activity complies with the provisions of the Birds Directive.

Should the outcome of this consultation result in changes to any of the species lists on the general licences, it will be essential to publicise widely these changes, particularly if the species in question are normally routinely included on a licence.

Achieving consistency between the terms and conditions of general licences in the respective countries will make communications more straightforward.

RSPB Countryside & Species Conservation Dept.
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