



# General Licences (England)

## Your questions answered

### The current situation

**Q: Has the law just changed?**

A: No. The Wildlife and Countryside Act 1981 remains unchanged.

**Q: So what has changed?**

A: Faced with a legal challenge, Natural England withdrew three General Licences (for livestock protection, health and conservation) in April. It began replacing them in May before [Defra stepped in and took control](#).

**Q: What did Defra do?**

A: It initiated a one-week call for evidence and received over 4,000 responses. On 14 June it issued [three replacement General Licences](#).

**Q: Are the new licences the same as the old ones?**

A: They are very similar but not identical. They can't be used on some designated sites, such as Special Protection Areas (SPA), nor for gulls. Read Defra's summary [here](#).

**Q: If I am using one of the new licences, do I need to read the conditions carefully?**

A: Yes. It is illegal to trap, shoot (or otherwise kill or take) the General Licence species such as crows, magpies and woodpigeons unless you are covered by the terms of a licence.

**Q: Has Defra produced a one-page summary of which licence I should use?**

A: Yes. Its new 'decision tree' diagram can be read [here](#).

**Q: Do I need to register to use the General Licence?**

A: No. But, as with the previous one, you must comply with the terms of the licence.

**Q: Do I need to submit returns to Defra?**

A: No.

**Q: Someone mentioned they are registering with Natural England for an individual licence?**

A: If what you want to do is not covered by one of the new General Licences, you should apply for an individual licence. Forms are available on our website [here](#).

**Q: How long will it take to process an individual licence application?**

A: Some people have received theirs within a week. Natural England's other individual licences state 30 days [here](#).

**Q: If I recently received an individual licence, is it still valid?**

A: Yes.

**Q: Am I required to try, and keep trying, all alternatives before shooting?**

A: No. You must make reasonable endeavours unless impractical. More information is available [here](#).

**Q: What prompted the withdrawal of the previous licences?**

A: Chris Packham and two others allege that Natural England failed to satisfy itself that there is no satisfactory alternative solution to lethal control.

**Q: But users of the General Licence had to be satisfied that there were no alternatives?**

A: Correct. However, the challenge was that Natural England must be satisfied there are no alternatives to lethal control.

**Q: Is this why they withdrew the previous General Licence and are issuing new ones?**

A: Yes. Natural England has not published its legal advice, but it states that the previous licences were issued without it being lawfully satisfied about the absence of other satisfactory solutions (which is a requirement of the Wildlife and Countryside Act 1981).

## The legal background

**Q: Natural England issues a whole range of licences, so where do General Licences fit in?**

A: The General Licence was first introduced in the 1990s to strike a balance by minimising burdens on those who need to manage a species without impacting on its welfare or conservation status.

**Q: I thought all birds were protected by the EU Birds Directive?**

A: They are. So, as with other European nations, the UK<sup>1</sup> sends a submission<sup>2</sup> each year to the EU, which explains why and how we have derogated<sup>3</sup> from it<sup>4</sup>.

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<sup>1</sup> Because this authority is now devolved, licences are issued separately by each national countryside agency, but the UK remains answerable to the EC for all of them.

<sup>2</sup> Reports are submitted online via the HaBiDeS portal with the aim of ensuring consistency of information across member states.

<sup>3</sup> Nations must state the nature of each derogation, how it has been implemented, and what 'controls' were carried out.

<sup>4</sup> EU Birds Directive (1979, 2009), Article 9. Member states may derogate from the provisions of Articles 5 to 8 [which establish basic protection for all birds, restrict hunting seasons, etc], where there is no other satisfactory solution, for various reasons.

**Q: Have we successfully justified the use of our previous General Licences to the EU in the past?**

A: Yes. We have been doing so since at least 1996, the most recent being 2018<sup>5</sup>, and we are not aware of any concerns. Indeed, one EU review<sup>6</sup> noted that “none of the UK derogations is in apparent conflict with the protection of the species”.

**Q: How does UK law manage these derogations?**

A: Actions that would otherwise be an offence within the Wildlife & Countryside Act<sup>7</sup> 1981 can be permitted by granting licences as general or as specific as was considered appropriate.

**Q: When was the first General Licence issued in the UK?**

A: We believe the first General Licence in the UK was issued in 1991 by Defra’s predecessor, the Department of the Environment (DoE), to allow the use of Larsen traps with a decoy to catch corvid birds.

**Q: What was the legal issue with the Larsen trap?**

A: For the long-term housing for birds, the act contained a requirement<sup>8</sup> that a cage must allow the bird to stretch its wings freely. The temporary use of the Larsen trap cage was not included in the 1981 act because they were not in use here then.

**Q: On what basis was a General Licence issued for the Larsen trap?**

A: The GWCT presented a cost-benefit case to Defra that predation by corvid birds was a serious issue for native ground-nesting birds, and that there was no other satisfactory (effective and legal) solution; that some practitioners at that time were using illegal poisons; and that the Larsen trap provided a highly focused and efficient control method that allowed the rapid removal of territorial corvids before dependent young became an issue.

**Q: Was the purpose of the legislation affected?**

A: No. The purpose was unaffected because it was not intended that birds would be held in the traps for long periods. This was supported by conditions in the licence, which also reminded licensees of their responsibilities under other legislation (notably the Animal Welfare Act).

**Q: So when are General Licences appropriate?**

A: In our view, the point of a General Licence is that generalities can safely be made, while licensing on a more individual basis would be inappropriate. It seems fundamental to this to know that lethal control can be effective, but it is not necessary to show that it is invariably effective, or that non-lethal options are invariably ineffective. Non-lethal methods may be partially or inconsistently effective but still unsatisfactory in general. In specific circumstances either lethal or non-lethal approaches may be inappropriate or ineffectual. Making the full range of options available to all is thus a defensible approach. Similarly, it is not necessary to wait and see whether each individual of a predatory species turns out to be predatory in the specific circumstances facing each practitioner.

**Q: Have pest bird species always been controlled under General Licences?**

A: No. Until 1995 birds on the ‘pest list’ could be killed.

**Q: What happened in 1995?**

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<sup>5</sup> The 2018 submission was a report on 2017.

<sup>6</sup> The Review was in 2005.

<sup>7</sup> WCA (amended 1995), Section 16(1)

<sup>8</sup> WCA S.8(1)

A: The UK government brought our law into line with the EU Birds Directive. When it did this, the automatic right to control ‘pest birds’ was removed. Instead, it permitted their lethal control through licensing<sup>9</sup> where it was the only satisfactory solution for the purpose of safety, conservation or crop protection.

**Q: How is ‘satisfactory’ determined in law?**

A: Neither the EU Directive nor domestic UK legislation suggest how ‘satisfactory’ is to be determined. We assume there must be some form of cost-benefit analysis. Wildlife problems are complex, and what works at one time and in one situation may not work in another. The justification for a General Licence is that making the option of lethal control available alongside non-lethal methods provides the only satisfactory approach to a widespread problem, provided measures are in place to monitor the target species and ensure that its conservation status is not impaired.

**Q: But we must not damage the conservation status of any bird species?**

A: Correct. But, in some cases, the target species may be disproportionately abundant as a result of human land-uses, justifying the reduction of density on a local and temporary basis to allow a particular human activity or ecological process to succeed, while not damaging the conservation status of the target species at a national level. It would also be relevant to note that issuing individual licences on an annual basis for this widespread purpose would be disproportionately burdensome.

**Q: What changed in 2005?**

A: Defra proposed to introduce a new clause into these General Licences, requiring each practitioner to demonstrate that non-lethal options had been tried and were unviable. The GWCT, BASC and NGO argued strongly against this, saying that the licensing authority (at that time Defra) held responsibility under the EU Directive for the derogation, not the individual. Defra accepted this, toning down the proposed wording to say that the practitioner must satisfy his/herself that non-lethal methods “are either ineffective or impracticable”.

**Q: Has the EU rejected our use of the General Licences?**

A: No. In England the licences have been re-issued without significant change since 2005, with NE renewing them and submitting evidence annually to the EU just as Defra did before it. In Scotland, a thorough review of licences to kill corvid birds was carried out in 2016, resulting in minor changes to the General Licences.

**Q: Was there ever a review of methods used to control bird species?**

A: Yes. Defra had commissioned a review of the methods from its own agency, Central Science Laboratory (Bishop et al 2003). There have been no significant advances in non-lethal methods that would change the options, and trend data have not suggested any concern about the conservation status of target birds.

**Q: So what changed in 2019?**

A: Perhaps because it has no organisational memory of those early licences, Natural England (the current licensing authority) apparently believed that it had indeed left responsibility to the individual practitioner. But in issuing and renewing General Licences, and in defending them annually to the EU, Defra had evidently been satisfied that, while non-lethal methods were widely available and often used, lethal methods were also required; and that regulation through General Licences – rather than class or individual licences – was the only satisfactory approach to the situation.

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<sup>9</sup> Section 16(1)(A) The appropriate authority— shall not grant a licence for any purpose mentioned in subsection (1) unless it is satisfied that, as regards that purpose, there is no other satisfactory solution; ...