

Possession, sale and competitive showing of birds

A summary of the law

Wildlife Management & Licensing



The principal legislation governing the possession, sale and exhibition of birds in England is the Wildlife and Countryside Act 1981 (as amended) (“the 1981 Act”).

Possession

1. Under section 1(2) of the 1981 Act, it is an offence to have in one’s possession or control any *wild bird*¹ which has been taken from the wild in contravention of UK law including the 1981 Act, domestic legislation implementing Directive 2009/147/EC on the conservation of wild birds (“the Wild Birds Directive”) or the domestic legislation of any European Union Member State which implements the Wild Birds Directive (see section 1(3A) of the 1981 Act).

Exceptions

2. There are, of course, a number of exceptions to this all encompassing prohibition. One exception is provided by section 1(6) of the 1981 Act which makes clear that the possession of most species of bird that ‘**can be shown**’ to have been bred in captivity is not an offence. Whilst the 1981 Act does not go into detail about what is meant by the phrase ‘can be shown’, the law clearly places the burden on the person in possession of the *wild bird(s)* to satisfy any enforcement authority that they are lawfully held.
3. Natural England has provided guidance on the use of documentary evidence for captive breeding in respect of its general licences relating to the sale and competitive showing of *wild birds*. This has been referred to by magistrates in at least one court case relating to the possession of wild birds and we would recommend that people do follow this guidance, as it is likely to be taken into account by enforcement authorities (see paragraph 7(i) below).
4. Under section 7 of the 1981 Act it is an offence to have in one’s possession or control any bird listed on Schedule 4² of the Act (including captive-bred birds) unless it has been registered with Defra and appropriately ringed or marked – for more information contact Defra’s Animal Health and Veterinary Laboratories Agency (“AHVLA”) or see <http://animalhealth.defra.gov.uk/cites/birdregistration/index.htm>.

Sale and Competitive Showing

5. Under section 6 of the 1981 Act it is an offence to sell (which includes bartering and exchange), offer for sale, possess or transport for sale, and advertise for sale live or dead *wild birds* (including captive-bred birds)³. It is also an offence to show at any competition, or in any premises where a competition is being held, a live *wild bird*. However, there are some exceptions to the restrictions on the sale and competitive showing of *wild birds* which are summarised as follows:
 - (i) The sale and competitive showing of a live bird included in Part I of Schedule 3⁴ to the 1981 Act is not an offence provided that it is captive-bred⁵, and is ringed in accordance with the Wildlife and Countryside (Ringling of Certain Birds) Regulations 1982 (SI 1982/1220) with an approved close ring obtained from the British Bird Council or the International Ornithological Association.
 - (ii) The sale and competitive showing of most other live *wild birds* is not an offence provided that they are captive-bred and are covered by one of Natural England’s general licences referred to in paragraph 7 below.

6. Birds that do not fall within the definition of a '*wild bird*' under the 1981 Act may be sold and competitively shown provided that they are held legally and a certificate is obtained under Article 10 of Council Regulations (EC) no 338/97 ("EU Wildlife Trade Regulations") for the commercial use of any species listed on Annex A of those regulations (see paragraph 7(iii) below).

General Licences

7. Information on Natural England's general licences is available online at: www.naturalengland.org.uk/ourwork/regulation/wildlife/licences/generallicences.aspx.

The licences that are relevant to the sale and competitive showing of live wild birds are listed below. There is no need to apply for one of these licences in order to act under it, but the general licence must be read in full so that its purpose and the terms and conditions are fully understood.

- (i) *General Licence GL14*: Allows the competitive showing of all species of *wild bird* (excluding those on Schedule 3 Part I which can be competitively shown without a licence if they have been bred in captivity. Documentary evidence⁶ of captive breeding must accompany any bird competitively shown under this general licence. Most species must be ringed with an individually numbered metal close ring, although this is not required for the species listed in Annex 1 of the licence, which are rare visitors to Britain.
- (ii) *General Licence GL15*: Allows the Mealy Redpoll to be sold or competitively shown with a size C metal close ring (a different size to that specified in the statutory instrument relating to Schedule 3 Part I).
- (iii) *General Licence GL18*: Allows *wild birds* to be sold, bartered or exchanged provided that they are captive-bred and that documentary evidence⁶ of captive breeding accompanies the bird. This general licence applies to most species of *wild bird* but the following exceptions apply:
- Birds listed on Schedule 3 part I which may, in any case, be sold without the need for a licence – see paragraph 5(i) above
 - Birds listed on Annex A of the EU Wildlife Trade Regulations, *unless* an Article 10 certificate under CITES regulations⁷ has already been obtained from AHVLA. Annex A species include all European birds of prey and owls, Little Egret, Garganey and Turtle Dove as well as many other rare visitors to Britain and many non-native species – the following website has a searchable list of species www.unep-wcmc-apps.org/eu/Taxonomy/search.cfm.
 - Birds listed on Appendix 1 of GL18. The species currently listed are Mute Swan, Ruddy Duck and Egyptian Goose. These species may not be sold unless an individual licence is obtained from Natural England.

Most species covered by GL18 must be fitted with an individually numbered metal close ring but there are a number of wildfowl species that do not require a ring before they can be sold. These are listed in Appendix 2 of the licence.

Please Note

This advice note summarises the key legal provisions relating to the possession, sale and competitive showing of birds in England. This advice note is not intended to be comprehensive and is no substitute for you obtaining your own legal advice as to how the law applies to the particular facts of a given situation.

Explanatory Notes

¹ The term '*wild bird*' is defined under section 27(1) of the 1981 Act as meaning '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 6 and 16 [of the 1981 Act] any game bird'. In addition, for the purposes of the definition of '*wild bird*' under section 1 of the 1981 Act, section 1(6) also states that 'the definition of '*wild bird*' in section 27(1) is to be read as not including any bird which can be 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'.

² Schedule 4 currently includes the following species:

Golden Eagle, White-tailed Eagle, Marsh Harrier, Montagu's Harrier, Honey Buzzard, Goshawk, Osprey, Peregrine and Merlin

³ Other than for section 1 of the 1981 Act the definition of '*wild bird*' is set out in section 27, quoted in ¹ above. In contrast to the definition of wild bird under section 1, this **includes birds bred in captivity**, as well as birds taken from the wild.

⁴ Schedule 3 Part I currently includes the following species:

Blackbird
Brambling
Bullfinch
Bunting, Reed
Chaffinch
Dunnock
Goldfinch
Greenfinch
Jackdaw
Jay
Linnet
Magpie
Owl, Barn

Redpoll (following taxonomic changes, *Carduelis flamma* the species listed in Schedule 3, is the Mealy Redpoll. The Lesser Redpoll *Carduelis cabaret*, the common species breeding and wintering in Britain is no longer covered under Schedule 3 and must be sold under GL18 – see 4(iii) above)

Siskin
Starling
Thrush, Song
Twite
Yellowhammer

⁵ A bird shall not be treated as bred in captivity unless its parents were lawfully in captivity

when the egg from which it hatched was laid (see section 27(2) of the 1981 Act).

⁶ 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 and any other identification mark (e.g. microchips), hatch date, along with similar details for the parent birds, and the breeder's contact details.

⁷ For further guidance on the commercial use of birds and other species listed under CITES, see

<http://animalhealth.defra.gov.uk/about/publications/cites/guidance/GN2.pdf>. For additional guidance for breeders, bird of prey keepers, wildfowl, pheasant and parrot keepers see <http://animalhealth.defra.gov.uk/cites/applications/guidance.html>. For any further queries about CITES controls or bird registration requirements, please contact AHVLA's Wildlife Licensing and Registration Service by telephone on (0117) 372 8774, or by email to wildlife.licensing@AHVLA.gsi.gov.uk.

Further Information

Legislation: UK legislation is publicly available online from the Office of Public Sector Information: www.opsi.gov.uk/

Licensing: Natural England is the authority responsible for issuing licences under the Wildlife and Countryside Act 1981 (as amended) in England. For advice and application forms visit the Natural England website or contact the licensing team directly.

Feedback: If you wish to provide feedback on this guidance or report inaccuracies or inconsistencies please contact Natural England or use the Better Regulation website www.betterregulation.gov.uk/

Contact details: Natural England Wildlife Management & Licensing Team

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