

Protection of wild birds

Despite the fact that all wild birds are protected by law, birds are still persecuted and suffer cruel treatment. Birds are shot, poisoned, unlawfully trapped, have their nests disturbed or destroyed and eggs are stolen. As a result, this is having a major impact on our country's wild bird population and many species are seriously in decline, and it is likely that if this continues certain species will suffer extinction.

The primary legislation which offers protection to wild birds is the Wildlife and Countryside Act 1981, albeit the Animal Welfare Act 2006 does provide some protection against unnecessary suffering. Under this legislation a wild bird is described 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, any game bird unless it is carried out under licence or for prohibitive measures. Game birds mean any pheasant, partridge, grouse (or moor game), black (or heath) game or ptarmigan. However it must be noted that game birds can only be shot at certain times and are protected during the closed seasons under the Gaming Acts. The dead game bird may only be sold during the open season or up to 10 days after the season has closed. Further it does not include 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.

General protection

Under the Wildlife and Countryside Act 1981 all wild birds, their nests and eggs are protected species.

It is an offence for a person to do any of the following:

If any person intentionally

- kills, injures or takes any wild bird
- takes, damages or destroys the nest of a wild bird Birds which Re-use their Nests such as the Golden and White tailed Eagle and osprey
- takes, damages or destroys the nest of any wild bird while that nest is in use or being built
- takes or destroys an egg of any wild bird

Intentionally or recklessly

- disturbs any wild bird included in Schedule 1 while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturbs dependent young of such a bird,

Be in possession or control of

- any live or dead wild bird or any part of, or anything derived from, such a bird
- an egg of a wild bird or any part of such an egg

Sale of live wild birds and their eggs

The collecting of wild birds eggs has been illegal since 1954. It is an offence even to possess the eggs of wild birds which have been taken in contravention of either the old

Protection of Birds Act, 1954 or the current Wildlife & Countryside Act, 1981, which replaced it. However, some collectors persist in their activities, and some very large collections have been seized by police in recent years. Egg collectors often target the rarest birds and can threaten the very survival of some species.

It is an offence for a person to do any of the following:

- sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live wild bird other than a bird included in Part I of Schedule 3 (see below) of the Wildlife and Countryside Act 1981, or an egg of a wild bird or any part of such an egg; or
 - publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things.
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Sale of dead wild birds

It is an offence for a person to do any of the following:

- sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any dead wild bird other than a bird included in Part II or III of Schedule 3 (birds listed in Schedule 3 can be sold dead from 1st September to 28 February of any year), of the Wildlife and Countryside Act 1981 or any part of, or anything derived from, such a wild bird; or
 - publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things.
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Exhibition of wild birds

Unless a person is licensed it is an offence for a person to do any of the following:

Shows or causes or permits to be shown for the purposes of any competition or in any premises in which a competition is being held:

- any live wild bird other than a bird included in Part I of Schedule 3; of the Wildlife and Countryside Act 1981 (which means any bird which was bred in captivity, has been ringed or marked in accordance with regulations made by the Secretary of State, and has not been lawfully released into the wild as part of a re-population or re-introduction programme. **or**
- any live bird one of whose parents was such a wild bird,

Exemptions

A person shall not be guilty of an offence

- the taking of any wild bird if he shows that the bird had been disabled otherwise than by his unlawful act (i.e. by the act of some other person) and was taken solely for the purpose of tending it and releasing it when no longer disabled.
- the killing of any wild bird if he shows that the bird had been so seriously disabled otherwise than by his unlawful act that there was no reasonable chance of its recovering or
- if he shows that the act was the incidental result of a lawful operation and could not reasonably have been avoided

1. If birds are injured or killed and are those which must be registered and ringed if kept in captivity as per schedule 4 of 1981 Act should be registered with DEFRA immediately or handed to a person who is licensed to keep such a bird. Such a person can keep the bird up to 15 days without registering it provided that DEFRA are made aware in writing within 4 days of the bird coming into that persons possession
- If the killing, attempted killing or injury of a bird listed in Schedule 2 is done outside the closed season, in a prescribed area on a Sunday, an Area of Special Protection or an area of Special Scientific Interest (SSSI)
 - If an authorised person shows that the action was necessary for the purposes of preserving public health or public or air safety; preventing the spread of disease; or preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, fisheries or inland waters. An authorised person shall not be regarded as showing that any action of his was necessary for a purpose mentioned unless he shows:
 1. There was no other satisfactory solution
 2. If the killing or injury was foreseeable a licence had been applied for as soon as practicable or an application for the licence had not been determined
 3. DEFRA or the Welsh Assembly Government have been notified that the killing or injury occurred as soon as was practicable
 - the bird or egg had not been killed or taken, or had been lawfully killed or taken or
 - the bird, egg or other thing in his possession or control had been lawfully sold (whether to him or any other person)

The term 'lawful' includes without contravening the Wildlife and Countryside Act (and orders made under this Act), the Protection of Birds Acts 1954 to 1967 and orders made under those Acts, any other legislation which implements the Wild Birds Directive and extends to any part of the United Kingdom, to any area designated in accordance with section 7 of the Continental Shelf Act 1964, or to any area to which British fishery limits extend in accordance with section 1 of the Fishery Limits Act 1976, and any other EU Member state implementing the Wild Birds Directive.

Licences

A General licence does not allow anyone to kill birds for sport or because they are regarded as vermin. The licence allows certain members of the public for example farmers or county councils to allow them to deal with certain wild birds that are affecting crops etc or are causing health issues.

For further information on licences please refer to DEFRA and Natural England websites.

Trapping Birds

Only authorised persons who have obtained a general licence are lawfully allowed to use cage-traps or nets to trap certain species of wild bird. Game birds can be taken only for the purpose of breeding. Larson cages are often used to trap corvids (magpies, crows, rooks and jackdaws). When a decoy bird is used in a Larson trap the decoy bird must be given food, water, shelter and a perch. When in use, the cage trap must be checked daily and the birds caught must be removed from it and humanely despatched. Protected birds caught inadvertently must be released unharmed. **When these traps are not in use, they must be rendered incapable of catching or holding birds.**

Under Section 11 of the Wildlife & Countryside Act 1981 if any person uses a decoy, for the purpose of killing or taking any bird they shall be guilty of an offence.

Birds in captivity

Captive birds are those usually kept as a hobby, pets, pleasure, scientific interest or sport such as racing pigeons, birds of prey, parrots, canaries and budgerigars. Birds of a species that is resident in or a visitor to the European Territory of any member state in a wild state may only be kept in captivity if it was initially bred in captivity.

Under Section 7 of the Wildlife and Countryside Act 1981, any captive bird of a species listed in Schedule 4 must be registered with Animal Health (DEFRA).

If you keep any of the birds in the list, you must inform Animal Health and provide the address at which it is being kept, even though you may not be the owner. All birds listed on Schedule 4 must be fitted with a unique leg ring, cable tie, microchip, or have a licence to be kept unringed.

In England 50 species and all hybrid birds were removed from Schedule 4 from the **1st October 2008**.

9 species will remain on Schedule 4, these are:

- white-tailed sea eagle
- Montagu's harrier
- honey buzzard
- osprey
- marsh harrier
- goshawk
- golden eagle
- peregrine falcon
- Merlin

Under Section 8 of the Wildlife and Countryside Act 1981 it is an offence for any person to keep or confine any bird whatever in any cage or other receptacle which is not sufficient in height, length or breadth to permit the bird to stretch its wings freely.

This does not apply to poultry, or to the keeping or confining of any bird

- while that bird is in the course of conveyance, by whatever means;
- while that bird is being shown for the purposes of any public exhibition or competition if the time during which the bird is kept or confined for those purposes does not exceed 72 hours; or
- while that bird is undergoing examination or treatment by a veterinary surgeon or veterinary practitioner.

It is an offence for any person to

- promote, arrange, conduct, assist in, receive money for, or take part in, any event whatever at or in the course of which captive birds are liberated by hand or by any other means whatever for the purpose of being shot immediately after their liberation; or
- being the owner or occupier of any land, permits that land to be used for the purposes of such an event,

How to help protect birds

The Royal Society for the Protection of Birds (RSPB) is the largest charitable organisation protecting birds in Britain. If you would like further information on the types of wild birds in England and Wales, or would like further information on the list wild birds contained in the Schedules of the Wildlife and Countryside Act 1981 please see the RSPB address below or their website at www.rspb.org.uk or alternatively for the Schedules please refer to the DEFRA website at www.defra.gov.uk