

# Game birds

## managing the bird-strike risk at airports and airfields in England



Wildlife Management & Licensing

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Aviation authorities are responsible for managing all potential hazards to air safety, including those posed by birds and other wildlife. As far as is feasible and practical, the law requires that wildlife hazards are managed by non-lethal methods (such as managing the environment of airfields or by bird-scaring measures) or by lethal methods which are lawful (such as shooting birds in the open season, for species where this is an option).

Where such measures are insufficient alone to manage the bird-strike risk airports may rely on the General Licence for Air Safety<sup>1</sup> issued by Natural England or they may apply for a specific licence, either of which will permit them to undertake actions that would otherwise be unlawful (such as shooting a bird species which poses a bird-strike risk). These licensing options are available for all wild birds except game birds.

This guidance explains the legal situation for game birds and highlights the options available to manage bird-strike risks.

### Scope

This guidance only concerns bird species that are defined as 'game birds' under the Game Act 1831 and the Wildlife and Countryside Act 1981. In practice (but not exclusively) the definitions in these Acts refer to the following species, which are ordinarily found in the wild in Great Britain:

- All pheasants (including the common or ring-necked pheasant, *Phasianus colchicus*)
- All partridges (including the grey partridge, *Perdix perdix* and red-legged partridge, *Alectoris rufa*)
- Red grouse (*Lagopus lagopus*)
- Black grouse (*Tetrao tetrix*)
- Ptarmigan (*Lagopus mutus*)

All other wild birds (including snipe, woodcock and bustard, which are normally regarded as game birds) are protected under the Wildlife and Countryside Act 1981 and where action is necessary to preserve air safety appropriate measures may be authorised under a licence. The air safety General Licence<sup>1</sup> permits the management of a number of species that commonly cause problems and there is scope to apply for specific licences to manage other species.

### Limitations

This guidance highlights the key legislation relevant to management bird-strike risks. Please note that it does not remove the responsibility of organisations to comply with the law; neither does it change the fact that interpretation of the law is ultimately a matter for the courts. This guidance applies to England only.

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<sup>1</sup> Air safety general licence (GEN-L06) is available online at:  
[www.naturalengland.org.uk/ourwork/regulation/wildlife/licences/generallicences.aspx](http://www.naturalengland.org.uk/ourwork/regulation/wildlife/licences/generallicences.aspx)

## How to manage the bird-strike risk posed by game birds

### **Reducing the number of game birds\* on and in the vicinity of an airfield as follows will minimise the bird-strike hazard**

1. Manage the airport environment according to normal bird management practices so that it is an unattractive habitat for game birds
  - Perimeter fencing can help deter game birds
2. Undertake the full range of appropriate legal scaring and deterrent activities (e.g. shooting to scare, birds of prey, etc.). Scaring activities may be reinforced by shooting to kill during the open season
3. Encourage any neighbouring landowners who release or manage game birds on their land to adopt game management practices that reduce the frequency that game birds stray on to the airport or fly across flight paths
  - Avoid releasing, feeding and sighting shelters or game cover crops in the vicinity of the airport
  - In the case of driven shoots, drive birds away from the airport
4. If necessary, reduce game bird numbers by shooting (or catching up and removing) game birds outside the close season
  - Apply to Natural England for a licence if you need to a prohibited method (such as cage traps, nets or spot-lights)
5. If, despite these measures, there remains an unacceptable level of risk of bird-strike during the close season then the airport authority should contact their local Police Wildlife Crime Officer. The local police may agree to introduce a temporary 'amnesty' in respect to the offence of shooting game birds in the close season (where carried out to protect air safety) using their operational discretion not to investigate or make arrests in a defined category of case. Natural England is willing to offer the police advice, if required (see separate advice on 'Prosecutions and Public Interest')

Inform the Department for Environment, Food and Rural Affairs that a licence under Article 9, 1(a) of the Birds Directive (to preserve air safety) is required to enable the airport to fully discharge its statutory obligations in respect to air safety. This request should be copied to the Natural England licensing unit.

6. Keep a detailed written record of all actions taken to manage the game bird-related bird strikes problems.

*\* in this context game birds are: all pheasants, all partridges, all grouse and ptarmigan*

Advice issued by  
Natural England  
Wildlife Management and Licensing  
[www.naturalengland.org.uk](http://www.naturalengland.org.uk)

## The law

The killing or taking of game birds is only lawful Monday to Saturday (inclusive) during the open season.

### Game Act 1831

The Game Act makes it an offence to take game birds on Sundays, Christmas Day and during the relevant close season

<b>Game bird</b>	<b>Close seasons (dates between)</b>
Partridge	1 February – 1 September
Pheasant	1 February – 1 October
Black game	10 December – 20 August <sup>2</sup>
Grouse (red game)	10 December – 12 August

There are no exceptions and no licensing provisions in the 1831 Act or other legislation that permit the taking or killing of game birds during the close season or on prohibited days for the purpose of preserving public safety or air safety<sup>3</sup>.

### Wildlife and Countryside Act 1981

Under the Wildlife and Countryside Act 1981 game birds, their eggs and their nests are protected from the use of **certain methods of killing and taking** at all times, including during the open season.

The list of prohibited methods includes a wide range of techniques, including some which are used in the management of wild bird populations (e.g. nets, cage traps, decoy birds and devices for illuminating a target<sup>4</sup>).

Unlike the Game Act, there is scope under this legislation to obtain a licence to lawfully use a prohibited method and licences can be issued '*for the purposes of preserving public health or public or air safety*'<sup>5</sup> where the licensing authority (Natural England) considers the activity justified and there is no other satisfactory alternative<sup>6</sup>. However, these licences cannot permit anything prohibited by the Game Act 1831, so you can only use a prohibited method licence during the open season and not on either Sundays or Christmas Day.

### EC Birds Directive

The EC Birds Directive includes a provision<sup>7</sup> to permit Member States to issue licences to kill or take bird species in the interests of air safety; however, this provision is not available under English law in respect to **game birds**.

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<sup>2</sup> 10 December – 1 September in Somerset, Devon or in the New Forest.

<sup>3</sup> The taking or killing of game birds in the close season can be authorised under the Agriculture Act 1947 (section 98) for the purpose of preventing damage to crops, pasture, animal or human foodstuffs, livestock, trees, hedges, banks or any works on land. This provision is not considered to be applicable to air safety.

<sup>4</sup> See section 5 of the Wildlife and Countryside Act 1981 for the full list of prohibited methods

<sup>5</sup> Section 16(1)(i) of the Wildlife and Countryside Act 1981

<sup>6</sup> Section 16(1A)(a) Wildlife and Countryside Act 1981

<sup>7</sup> Article 9, 1.(a) of the Birds Directive (2009/147/EC):

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:020:0007:0025:en:PDF>

### Prosecutions and the public interest

Natural England believes that airports must be able to properly manage hazards to aircraft, and thus public safety, posed by all wild birds, including game birds. However, Natural England cannot advise people to act unlawfully (as this itself could be an offence); nor can it give blanket assurances that neither it nor any other prosecuting authority will decline to prosecute in a give situation because it is not in the public interest to do so. Each case regarding the public interest must be considered on its own merits by the relevant prosecuting authority in accordance with the tests set out in the Code for Crown Prosecutions.

While each instance of public interest must be decided on its own merits, where action is taken against game birds during prohibited periods solely for the purpose of preserving public and/or air safety, then it is unlikely that Natural England, in any advice provided to an enforcement authority, would recommend prosecution if the action would, if so judged, satisfy the requirements of a licence under the Birds Directive.

The principal enforcement authority for wildlife offences is the Police. In situations where it is considered necessary to take action that could lead to an offence being committed, but where it is not possible to obtain a licence from Natural England, the Police may be willing to advise whether they would in that case exercise their discretion not to investigate as it would not be in the public interest to so.

### **Activities on designated sites**

To safeguard the interest features of protected areas, prior consent from Natural England is required for any plans or projects that could potentially impact on the interest features of any area designated as a Special Protection Area (SPA) or a Special Area of Conservation (SAC). This obligation extends beyond the boundary of the protected area (for example, bird control or scaring activities carried out at or in the vicinity of an airport that affect birds using a nearby protected area may require consent). For further advice, contact your local Natural England office.

#### **Further Information**

Legislation	UK legislation is publicly available online from <ul style="list-style-type: none"><li>• Office of Public Sector Information: <a href="http://www.opsi.gov.uk/">www.opsi.gov.uk/</a></li><li>• The Statute Law Database provides versions of legislation incorporating subsequent legal amendments: <a href="http://www.statutelaw.gov.uk">www.statutelaw.gov.uk</a></li></ul>
Licensing	Natural England is the authority responsible for issuing licences under the Wildlife and Countryside Act 1981 in England. For advice and application forms visit the Natural England website or contact the licensing team directly.
Designated sites	To locate designated sites use the online mapping tool MAGIC ( <a href="http://www.magic.gov.uk">www.magic.gov.uk</a> )
Feedback	If you wish to provide feedback on this guidance or report inaccuracies or inconsistencies please contact Natural England or use Better Regulation website <a href="http://www.betterregulation.gov.uk/">www.betterregulation.gov.uk/</a>
Contact details	Natural England Wildlife Management & Licensing Team Web: <a href="http://www.naturalengland.org.uk">www.naturalengland.org.uk</a> Tel: 0845 6014523 (local rate) Email: <a href="mailto:wildlife@naturalengland.org.uk">wildlife@naturalengland.org.uk</a>