

## **Conservation of Wildlife (Jersey) Law 2000**

**Guidance notes for the issue of an annual licence to take or disturb Herring Gulls (*Larus argentatus*) and their eggs and nests, to take and kill chicks and to use a method that is otherwise prohibited.**

The purpose of this guide is to help applicants understand the requirements for obtaining a licence for control of Herring Gulls. Please note a separate licence is required for other gull species.

### **1. Introduction**

#### **1.1 Power to grant licences**

The Conservation of Wildlife (Jersey) Law 2000 ('the Wildlife Law') protects all wild bird species that breed in or visit the island in a wild state, with the exception of magpies, common and feral pigeon, carrion crow and domesticated birds such as poultry.

The Wildlife Law prohibits the deliberate killing, injuring or taking of any protected wild bird, the disturbance of any protected wild bird occupying a nest and the destruction of a nest whilst it is in use. The use of certain methods of killing or taking any wild birds, including nets and traps, is also prohibited.

The Minister for the Environment has authority under Article 16(2) of the Wildlife Law to grant a licence to kill or take protected wild birds and their nests, or to use prohibited methods of capture, provided that the following legal conditions are satisfied:

##### a) Licence Purpose

Licences can only be issued for certain purposes specified in the Wildlife Law. These purposes include:-

- for preserving public health and safety or air safety;
- for preventing serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, fisheries or other forms of property, whether movable or immovable; or
- preventing the spread of disease

##### b) Alternative Solutions

The Minister shall not grant a licence for any purpose mentioned above unless he is satisfied that as regards that purpose;

- there is no other satisfactory solution and
- anything authorised by the licence will not be detrimental to the survival of the population concerned.

A licence can only be issued if all of the above conditions are satisfied.

It is the responsibility of the applicant to provide sufficient evidence in respect of the above.

The above is only a summary of the main provisions of the Wildlife Law as they relate to this present licence application. Any person considering applying for a licence is advised to consult the full text of the Law, which can be obtained from the Department of the Environment or online at [www.jerseylaw.je](http://www.jerseylaw.je)

## **1.2. Licence purpose**

This application form is for an annual licence to carry out activities affecting Herring Gull species (*Larus argentatus*) only. Activities authorised under this licence include the disturbance, removal and killing of chicks, the removal and destruction of eggs and nests (including egg oiling or replacement), and the use of certain methods of capture that are otherwise prohibited under the Wildlife Law.

This licence does not permit the killing of a bird that is capable of flight, nor does it permit any activity involving other species of gull or other protected bird species.

Licence applications involving activities and species that are not covered by this licence should be made using the application form for bird control 'WB – Wild Bird Control Application Form' available from the Department.

**Note** that it is a legal requirement that all activities carried out under this licence meet the purposes and conditions outlined in 1.1 above. It is the licence holder's responsibility to ensure such compliance throughout the term of this licence and to be able to demonstrate evidence of compliance if required.

## **1.3 Who can be licensed?**

It is a condition of any licence issued that all those persons (with the exception of supervised Assistants, see below) carrying out the licensed activities are appropriately trained and competent in carrying out the activities permitted by the licence. Sufficient clarification of such experience and competence (including, where necessary, training certificates and field experience) must be provided. In particular an approved certificate in bird management of an equivalent standard to that of the British Pest Control Association is required.

In addition, evidence of accredited membership of an appropriate professional body that covers both the licence holder and their agents will be required.

A licence may be held by a person or body who will not be carrying out the licensed activities themselves, but who may authorise named Agents to act independently under the licence. In this case the application should be accompanied by evidence of relevant experience and skills held by all named Agents.

**Note** that in all cases it remains the responsibility of the licence holder to ensure both that all Agents are suitably competent and that the terms and conditions of the licence are fully complied with by all Agents and/or Assistants carrying out the licensed activities.

The Department may not issue a licence to a person or body (whether applicant or named agent) who has not complied with the terms of a previous licence; licences may be suspended or revoked at any time and, if so, should be surrendered to the Department immediately.

**Note** also that the Department reserves the right to monitor compliance with this annual licence through the periodic inspection of documentation relating to activities carried out including method statements and activity reports as necessary.

#### 1.4 Training and References

NOTE that in considering references and evidence of training the Department may exercise discretion in consideration of the limited local availability of specialist referees and/or relevant training courses.

##### Eligible training certificates or licences from another authority

Reputable training with a recognised training organisation can be counted as part of a required reference. Training should be relevant to the licensed activities, including:

- Gull species identification, biology, ecology and conservation;
- Working knowledge of best practice control methods;
- An understanding (and requirement to comply with) of the relevant protocols and legislation.

A copy of the certificate needs to be submitted providing evidence of:

- Completion of the course (within the last three years); and
- The course content.

#### **References**

##### When a reference is required

<b>Written references needed if the applicant or named agent:</b>	<b>Number of references required</b>
has not held a licence for the species and/or proposed licensed activity in the last 3 years	2
Holds a relevant licence but wants to add new activities	1

Holds a relevant and current certificate of training that covers the proposed licensed activity	1
Holds a licence from another appropriate authority (ie. where the relevant species are covered)	1

### Who can be a referee

A referee(s) should:

- Be wildlife professionals with recognised qualifications and professional membership
- Have direct knowledge of your work on the species named in the application
- Have held a similar licence for the last 3 years

They should not:

- Be a partner or relative
- (both) work in the same company or organisation as the person for whom the reference is to be provided

### What the reference should include

The referee(s) should complete the reference template RT1 attached to these Guidance Notes and submit with the application.

In particular the referee should be able to provide:

- Information regarding their own experience with the relevant species and activity applied for; and
- knowledge of the applicant/agent's experience and competency with the relevant species and activity applied for.

The Department may contact you or your referee(s) to check details or request further information. It may also require you to provide updated certificates and/or additional references as evidence that skills and experience are current and relevant to the proposed licensed activities.

## **2. The Application Process**

Licence applications should be submitted in hard copy to the Department of the Environment at the address below using the appropriate form available from the Department or online at [www.gov.ie](http://www.gov.ie) accompanied by the relevant documentation in support of the application.

### Data sharing

In assessing the application, the Department will consider all of the information that you provide in your application form including copies of previous relevant licences. You may be asked to provide further information. The Department reserves the right to consult with third parties for professional advice/opinion regarding the application, and to disclose your application details if necessary.

The Department will aim to decide whether a licence should be issued within fifteen working days of receipt of the application and all relevant enclosures or within 30 working days when consultation is required. Complex applications may require more time to be processed. In this case you will be contacted to be informed of the reason for the delay.

If the licence application is approved the licence will be issued in duplicate and sent by post or electronically (on request) to the applicant. These must be signed and one copy returned to the Department of the Environment.

Note that the licence will only become valid once one original copy of the licence counter-signed by the applicant has been received by the Department of the Environment.

### **3. Completing the Application Form**

Please complete all sections of the application form. If any part does not apply to your specific application, please say so in the box so that we do not assume you have missed an answer.

#### Section A – Applicant Details

Please provide full details of the person or body who will be the principle licence holder.

#### Section B - Previous Applications and Experience

See Section 1.4 above

#### Section C – Additional Persons

For each additional named person to be included in this licence, please include their details in full and attach evidence of training and references (as stated in Section 1.4).

Assistants must work under the personal supervision of the licence holder or the Agents and do not need to be named in the application.

#### Section D - Use of prohibited methods

Article 9 of the Wildlife Law prohibits the use of certain methods of taking wild birds except under a licence. This includes the use of certain traps, nets, artificial lighting and sighting devices. All such methods that are likely to be used in carrying out the licensed activities should be specified. If you are unsure as to whether or not certain methods or equipment are otherwise prohibited you should consult with the Department before completing the licence application.

Note that it is illegal under wildlife and animal welfare legislation to cause suffering to any wild bird.

#### Section E – Previous convictions

If the applicant or an agent or assistant has any previous conviction under the Conservation of IE-HG – Control of Herring Gulls – Version 2017

Wildlife (Jersey) Law 2000 or the Animal Welfare (Jersey) Law 2004, then it must clearly be stated in this section, including names, dates and details.

#### **4. Reporting Requirements**

Note that as a condition of the licence, a report of all activities carried out through the licence term will be required to be submitted within 28 days of the expiry thereof. This report should include the following information:

- date of each activity;
- location of each activity;
- number of nests/eggs/chicks removed/killed at each location;
- details of any net or other equipment used that is otherwise prohibited under the Law;
- details of long term deterrent measures undertaken

NOTE that failure to meet this requirement will mean that the Minister may not issue any further licences to the licensee.

#### **5. Best Practice Guidance on Gull Control**

It is a condition of this annual licence that in carrying out the licensed activities the Licensee should at all times be aware of and comply with all relevant legislation, protocols and best practice guidelines. This should include keeping abreast of the relative effectiveness of control methods and long-term deterrents.

In general, the killing of any bird is not acceptable as a form of pest control. In all cases alternative non-lethal solutions should be examined and licensees must consider their actions in relation to the Law and advise their clients accordingly.

Thus the first approach in addressing situations where the presence of gulls is perceived to be an issue, should be to leave alone (until breeding is over) and to take long-term preventative action to ensure they do not return (see 6. below).

In circumstances where further action to resolve the issue is considered necessary, the Department will expect/require that the following key guidelines/protocols are considered/complied with at all times:

##### **5.5 Removal of adult birds and/or fledglings**

Note that this annual licence for gull control **does not authorise** the capture and/or killing of any adult bird or fully flighted bird (fledgling), for which a separate licence will be required to be sought from the Department (unless the capture and relocation takes place within the curtilage of the property).

A bird that appears capable of flight should be left to disperse of its own accord or 'hands off' encouragement from the problem site.

**Only in acute circumstances**, where a bird is posing an immediate threat to public health or safety and non-lethal means are ineffective or impractical, should the capture and killing of the bird be

contemplated.

## 5.6 Removal of young chicks (nestlings)

Whilst the killing of young gull chicks that are unfeathered or with down feathers and unable to fly (nestlings) is permitted under this annual licence for gull control, **such actions should only be taken in acute circumstances and if there is no other satisfactory solution.** Where possible and practical a nestling should be returned to its nest.

### **Circumstances where killing a nestling might be considered appropriate:**

- Where the nestling bird appears to have fallen from its nest but it is impractical to return it to its nest, due to difficulty in access for example;
- If the bird is seriously injured;
- Where the location of the nest site and the territorial behaviour of an adult bird in relation to its nestling is causing serious prolonged disruption, for example limiting access to a school playground or private dwelling;
- Where the location of the nest is preventing emergency maintenance/demolition works. Non-vital works such as the painting of a chimney stack which could be delayed until complete vacation of the nest site **would not** be considered to justify killing the nestling.

### **The following should be considered in all circumstances:**

- the killing of nestlings annually, at the same location instead of long term deterrents to prevent nesting (such as spiking) **is not** considered a good form of best practice.

It is **not** an acceptable form of practice and constitutes an offence under the Wildlife Law to remove a live bird of any age from a property/site and to translocate it to a different area (for example beach) in the expectation that it will survive/resolve the problem.

Note also that in all circumstances, a licence holder may be required by the Department to provide sufficient evidence of his actions.

## **6. Preventing the recurrence of issues**

In all circumstances where the presence of a nest site has created an issue requiring action under this annual licence, action should be followed up with advice to the land or property owner to install long-term proofing measures to prevent the issue from re-occurring the following year.

Measures may include the removal of food sources or blocking off sites where birds perch or roost. Proofing with blunt spikes, sprung wires and nets installed on buildings are effective in discouraging birds without harming them provided that such proofing is properly installed.

It is expected that the licence holder should be able to advise their clients appropriately on the prevailing best practice and most effective measures available as to the best long term control methods, which will avoid the need to kill chicks. This could for example include fitting spikes or nets to a location where nesting takes place regularly.

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## WARNING

The Minister for the Environment may modify or revoke any licence issued, at any time but this will not be done unless there are good reasons for doing so.

Failure to comply with the terms of a licence may make the licensee liable to prosecution for an offence. Any licence that is issued is likely to be revoked immediately if it is discovered that false information had been provided which resulted in the issue of a licence.

A person who, for the purpose of obtaining the grant of a licence, makes a statement or representation, or furnishes a document or information, which they know to be false in a material particular, shall be guilty of an offence and liable to a fine not exceeding level 3 on the standard scale.

A licence issued in respect of this application does not confer any exemption from any legal provision except those specifically in regard to the Conservation of Wildlife (Jersey) Law 2000.

Under the Animal Welfare (Jersey) Law 2004 it is an offence to cause unnecessary suffering to an animal. It is the responsibility of the licence holder to ensure that they and their authorised agents and assistants, use appropriate equipment and methods and to ensure that they are competent to use such equipment so as to avoid causing unnecessary suffering.

### **Application Procedure - Summary**

- An application for a licence should be made on the relevant form entitled '**HG – Herring Gull Control Application Form**'. Forms and Guidance Notes are available from the Department of the Environment (at the address shown on the front page of this advice sheet) or online at [www.gov.je](http://www.gov.je)
  - Ensure that the form is completed following the Guidelines above, and that all relevant supporting documentation is attached.
  - References should be submitted using the Referee Template RT1 with additional information attached as appropriate.
  - Electronic copies of the application form and supporting documents are accepted, however, the application will only be processed on receipt of the original signed application form.
  - The Department will aim to decide whether a licence should be issued within fifteen working days of receipt of the application and all relevant enclosures or within 30 working days when
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consultation is required. Complex applications may require more time to be processed. In this case you will be contacted to be informed of the reason for the delay.

- Note that the licence will only become valid once one original copy of the licence counter-signed by the applicant has been received by the Department of the Environment.
- The period of validity of a licence will be stated in it (normally 1<sup>st</sup> January to 31<sup>st</sup> December of a given year).
- **No renewal of a licence will be granted unless a return of activities carried out under the licence has been submitted to the Department of the Environment within 28 days of the expiry of the licence.**

**Please ensure that you have answered all questions fully and have signed the declaration of the Licence application.**