

# The British Law relating to Raptors

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## INTRODUCTION

The British law relating to birds of prey is to be found in the Wildlife and Countryside Act 1981 so far as the conservation of British wild birds is concerned; the Endangered Species (Import and Export) Act 1976 and relevant Council of the European Community Regulations (which have direct effect in British law) impose trade controls on all birds of prey in conformity with the Convention on International Trade in Endangered Species of Fauna and Flora (Washington Convention or CITES). The 1981 Act puts into effect the Council of Europe Convention on the Conservation of European Wildlife and Natural Habitats (Berne Convention), Council of the European Communities Directive of 2 April 1979 on the conservation of wild birds (Bird Directive), and the Convention on the Conservation of Migratory species of Wild Animals 1980 (Bonn Convention).

## CONSERVATION

The Wildlife and Countryside Act 1981 protects all wild birds, that is, those which are ordinarily resident in, or visitors to, Great Britain in a wild state (except poultry and game). The species of raptors covered by the Act are:

### "Special" Protection (Schedule 1)

Honey Buzzard	<u>Pernis apivorus</u>
Golden Eagle	<u>Aquila chrysaetos</u>
White-tailed Eagle	<u>Haliaeetus albicilla</u>
Gyr Falcon	<u>Falco rusticolus</u>
Goshawk	<u>Accipiter gentilis</u>
Harrier	<u>Circus spp.</u>
Hobby	<u>Falco subbuteo</u>
Red Kite	<u>Milvus milvus</u>
Merlin	<u>Falco columbarius</u>
Peregrine	<u>Falco peregrinus</u>
Osprey	<u>Pandion haliaetus</u>
Barn Owl	<u>Tyto alba</u>
Snowy Owl	<u>Nyctea scandiaca</u>

### "Ordinary" Protection

Common Buzzard	<u>Buteo buteo</u>
Kestrel	<u>Falco tinnunculus</u>
Sparrowhawk	<u>Accipiter nisus</u>

The protection provided for raptors by the Act can be summarised as follows:

	TAKE	)	
ILLEGAL to	KILL	)	a wild-bred raptor
	INJURE	)	

ILLEGAL	to	TAKE	)	its NEST while in use or being built
		DAMAGE	)	
		DESTROY	)	
ILLEGAL	to	TAKE	)	the EGG of a wild raptor
		DESTROY	)	
ILLEGAL	to	POSSESS	any live	)
			dead	)
			part of	) a
			derivative of	) wild-bred
			egg of	) raptor

Schedule 1 birds - "special penalty" = a higher fine may be imposed by court.

+ ILLEGAL TO DISTURB a wild raptor at or near its nest containing eggs or young or being built.

These provisions do not apply to captive-bred birds. The act defines the term "bred in captivity" strictly and requires that both parents must be shown to have been lawfully in captivity when the egg was laid. Captive-bred status has to be proved by the person alleging it and this can be difficult unless the parent was taken or imported under licence; in any other case very convincing records and witnesses must be produced.

There are a number of exceptions to the overall legal protection for birds. Such provisions permit the killing or taking of raptors for specified purposes such as the protection of crops and livestock, for public health and safety or for conservation or education. In most cases a licence authorising the action to be taken must first be obtained from the Department of the Environment (DOE), Nature Conservancy Council or Ministry of Agriculture Fisheries and Food.

Raptors in Schedule 4 of the Act kept in captivity must be ringed and registered with the DOE and a fee must be paid on registration. The requirement applies to all diurnal birds of prey (excluding owls and all vultures) whether they are wild, captive-bred or imported and whether they are of a British or foreign species.

The ringing is normally carried out by the owner with rings supplied by the DOE, although in the case of monitored species, namely:

Goshawk	Gyr Falcon
Golden Eagle	Harris's Hawk ( <u>Parabuteo unicinctus</u> )
Peregrine	Hybrids of these species
Merlin	

the various stages of breeding and ringing the chicks are witnessed by DOE inspectors. Once registered, any change in the ownership of a bird or the place where it is kept must be notified to the DOE.

Birds may be killed or taken from the wild without a licence when they are disabled by sickness or injury, in which case they may be killed humanely or kept for rehabilitation and released when fit to return to the

wild. In this situation it must be remembered that birds of prey are Schedule 4 species and must therefore be ringed and registered even if they have been taken under this provision purely for their rescue. Exemptions have been granted by open general licence to Licenced Rehabilitation Keepers (LRK's) and veterinary surgeons, permitting them to keep disabled, wild, Schedule 4 birds for up to 6 weeks without ringing and registration. They must keep records of the birds held and LRK premises are subject to veterinary inspection.

Protection is provided by the Wildlife and Countryside Act not only in respect of killing or taking birds but also as to the methods used in such situations. Hence it is prima facie illegal to use almost any method of killing or taking a bird (including game birds) such as traps, snares, poisons, lights, electrical devices, decoys and some firearms. However certain of these are permitted, provided that a licence is obtained authorising both the killing or taking and the method to be used. Thus in the case of a British bird of prey which has escaped from an aviary or in the course of falconry it will be necessary to have a licence authorising its re-capture (if it was originally taken from the wild) as well as the use of a trap; if it was captive-bred or a foreign species only a licence to use a trap is necessary.

#### TRADE IN RAPTORS

The Wildlife and Countryside Act restricts the sale of raptors and requires a licence to be obtained for their sale, exchange or barter. However, open general licences have been issued by the DOE permitting the sale of certain British and foreign birds of prey provided that they are captive-bred, no import or export or CITES restrictions are involved and the transaction is reported to the DOE. In other circumstances an individual licence to sell must be obtained.

International trade in raptors is controlled in British law by EEC Regulations and the Endangered Species Act 1976 and requires import licences for birds of prey moving in and out of the EEC. Within the EEC there is, in most cases, free movement of imported birds of prey. Birds bred or taken in one EEC country may be moved within the EEC on production of a certificate of origin. There are exceptions to these provisions where states have derogated from the Regulation and imposed stronger restrictions. For example, Great Britain has imposed a ban on all movement of birds of prey between Great Britain and West Germany and any interstate movement of the Gyr and Peregrine Falcons.

#### OTHER BRITISH LEGISLATION RELEVANT TO RAPTORS

Those keeping raptors in Great Britain must be aware of much more legislation than the conservation measures described above. Other relevant provisions are now outlined:

##### Import of Birds, Poultry and Hatching Eggs Order 1979

Any raptor imported into Great Britain must be imported under the authority of a Ministry of Agriculture licence which will require, inter alia, veterinary health certificates from the country of origin and 35 days' quarantine on arrival.

#### Transit of Animals General (Order) 1973

If a bird of prey is to be transported it must be carried in conditions and a container which will not cause it unnecessary suffering. If public transport is involved special requirements must be laid down by the carrier, particularly if it is an airline.

#### Protection of Animals Act 1911

A captive bird must not be caused or allowed to undergo cruelty or any unnecessary suffering.

#### Abandonment of Animals Act 1960

Release of raptors to the wild must be carried out with care and a bird must not be released in circumstances likely to cause it unnecessary suffering.

#### Wildlife and Countryside Act 1981

A special provision makes it illegal to confine a bird in a cage which is not large enough to permit it to stretch its wings freely - there are exceptions for this in respect of poultry, the transportation of birds, exhibitions (max. 72 hours) and while birds are undergoing examination or treatment by a veterinary surgeon.

#### Veterinary Surgeons Act 1966

In Great Britain the right to treat birds, including wild ones, is reserved to registered veterinary surgeons, even if no charge is made. Exceptions are made by the Act which allow the owner of a bird to treat it and permit first aid to be given by anyone in an emergency.

#### Zoo Licencing Act 1981

Collections of raptors which are open to public viewing for more than 7 days per year, whether or not for a fee, are included in the definition of a zoo. These must therefore undergo inspection by the Department of the Environment or local authority.

### CONCLUSION

Legislation relating to birds of prey is no novelty, in Europe at least. For example, Princess Eleanor of Sardinia, in her Carta de Loga of 1392, prohibited the taking of young hawks and falcons, the penalty being a fine of £5. In 1496 Henry VII of England required that "He who brings an Eyass-Hawk from beyond the sea, shall have a certificate under the Customer's Seal where he lands".

Legislation has moved from protecting royal rights to hunt once-plentiful species to conserving the diminishing stock of wildlife and great advances have been made, particularly in the 1970s and 1980s, in national and international statute-books by up-dating or instituting conservation laws.

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