

## Interim Licencing Regime for the Release of Gamebirds on or within a 500m buffer zone of European sites

<b>Lead department</b>	Department for Environment, Food and Rural Affairs (Defra)
<b>Summary of proposal</b>	A proposal to introduce an interim licencing regime that would require a licence for the release of pheasants and red-legged partridges on European Protected Sites and within a 500-metre buffer zone.
<b>Submission type</b>	Revised impact assessment (IA) – 08/06/2021
<b>Legislation type</b>	Primary legislation
<b>Implementation date</b>	31 May 2021
<b>Policy stage</b>	Final
<b>RPC reference</b>	RPC-DEFRA-5051(3)
<b>Opinion type</b>	Formal – Revised based on updated IA
<b>Date of issue</b>	22 July 2021 (original opinion issued 7 May 2021)

### RPC opinion

<b>Rating<sup>1</sup></b>	<b>RPC opinion</b>
<b>Fit for purpose</b>	The RPC welcomes the voluntary submission of this IA given that its impacts fall below the <i>de minimis</i> threshold for RPC scrutiny. The RPC acknowledges that due to significant time constraints the Department has not been able to develop a robust evidence base. However, the IA provides a reasonable level of analysis, based largely on evidence from consultation.

### Business impact target assessment

	<b>Department assessment</b>	<b>RPC validated</b>
<b>Classification</b>	Non-qualifying provision	<i>Non-qualifying (de minimis)</i>
<b>Equivalent annual net direct cost to business (EANDCB)</b>	£0.4 million (initial IA estimate) £1.2 million (revised IA estimate)	£1.2 million (2019 prices, 2020 pv)
<b>Business impact target (BIT) score</b>	£1.6 million (initial IA estimate) £4.8 million (revised IA estimate)	£4.8 million
<b>Business net present value</b>	–£1.5 million (initial IA estimate) –£4.5 million (revised IA estimate)	–£4.5 million
<b>Overall net present value</b>	–£0.4 million (initial IA estimate) –£1.2 million (revised IA estimate)	–£1.2 million

<sup>1</sup> The RPC opinion rating is based only on the robustness of the EANDCB and quality of the SaMBA, as set out in the [Better Regulation Framework](#). The RPC rating is fit for purpose or not fit for purpose.

## RPC summary

Category	Quality	RPC comments
EANDCB	<b>Green</b>	The Department uses consultation responses and other evidence to support the quantification of the direct costs to business of the proposal. The IA should be improved through ensuring indirect impacts are not included in the calculation of the EANDCB. Further, the Department should ensure its best estimates, supported by evidence, are used when calculating the EANDCB figure.
Small and micro business assessment (SaMBA)	<b>Green</b>	The IA contains a limited SaMBA and explains why small and micro businesses (SMBs) will not be exempt from the proposal. However, the IA should discuss whether mitigation measures would be possible and provide further information on the proportionate burden of the policy likely to be incurred by SMBs.
Rationale and options	<b>Satisfactory</b>	The IA presents a clear rationale for intervention which would be improved by including analysis on the proposal's environmental benefits to support the case for intervention. The IA also describes why, due to a court order, the Department has determined that a number of other options, including non-regulatory approaches, will not be appropriate to address the policy objectives.
Cost-benefit analysis	<b>Weak</b>	The IA sets out the data, analysis and assumptions clearly. However, as the IA notes weaknesses and uncertainty in the available data has significantly impacted the robustness of the analysis. Also, the IA has not monetised the proposal's environmental impacts.
Wider impacts	<b>Satisfactory</b>	The IA usefully considers the impact of the proposal on the wider rural economy and also provides information on the geographical location of European Protected Sites (EPS). It should be improved by identifying and analysing possible indirect impacts on businesses.
Monitoring and evaluation plan	<b>Weak</b>	The IA explains that Natural England is undertaking a review of its current approach to the consent regime. However, the IA must also discuss how the Department will monitor and evaluate the impacts on business and the environment that result directly from this proposal.

## Summary of proposal

The proposal is to introduce an interim licencing regime for the release of two types of gamebirds on, or within 500-metres of EPS. The interim licencing regime would operate alongside the current consent regime which Natural England will review. The IA explains that the Defra Secretary of State committed to put in place an interim licencing regime for the June 2021 release of gamebirds, pursuant to a consent order following a judicial review claim.

The proposed licencing regime includes a general licence for the release of pheasants and red-legged partridges on EPS and within a 500-metre buffer zone. This general licence will be applicable for all users unless certain conditions are not met in which case the user will be required to make a specific application. Conditions include a limit on the bird stocking density (the number of birds released per hectare) and a seasonal limit mandating that additional gamebirds must not be released to replace any that have already been killed that season, except within the limits stated.

The RPC issued an opinion on this policy on 7 May 2021, based on the Department's original IA dated 21 April 2021. On 19 July 2021, the Department subsequently submitted the revised IA dated 8 June 2021, which included further evidence. The RPC commends the Department for requesting a further review and revised opinion. The amendments have resulted in an increase in the Department's estimate of the EANDCB figure from £0.4 million to £1.2 million. We are able to confirm that the proposal is still a non-qualifying regulatory provision.

### Impacts of the proposal

The IA uses industry estimates to help quantify the proposal's costs to business, including the cost of shoots, familiarising themselves with the legislation and administrative costs licence holders will incur when Natural England requests for information on their releases and the consents they are operating under. Other costs to business include individual licence costs for shoots that are unable to use the general licence, costs resulting from changing operations to comply with the interim licencing conditions and the lost profit for shoots which are forced to cease operations.

The IA also monetises costs to the public sector which comprise of the administration costs of processing individual licences and monitoring and evaluation. The IA states that the benefits of the proposal, such as possible environmental benefits, have not been monetised due to the uncertain nature of those benefits and lack of evidence.

### EANDCB

The RPC confirms that the impacts of this proposal are below the '*de minimis*' threshold for RPC scrutiny. Therefore, the Department's classification of the proposal as a non-qualifying regulatory provision is appropriate.

### **Direct and indirect impacts**

The IA states that the Department “*envisages no ongoing costs to business from the measure after year one.*” It explains that although some shoots may be forced to close, resulting in lost profits, other shoots are likely to experience increased demand as a result of those closures. However, the RPC considers that any such increase in demand for other shoots to be an indirect impact. The EANDCB must include the profit lost when businesses cease to operate for the duration of the appraisal period, not just the first year. However, the RPC is satisfied that over the four-year appraisal period the correct treatment of profits lost from shoots ceasing to operate would have a negligible impact on the direct cost to business and therefore is still able to validate the EANDCB figure.

### **Evidence to support assumptions**

When calculating the EANDCB figure, the IA states that to take a conservative approach, “*we assume that no shoots are awarded individual licences*”. However, the IA should use the Department’s best estimate for its calculation of the EANDCB figure. Therefore, it should consider whether or not this and other assumptions are the most appropriate assumptions and provide evidence, or make use of a proxy, to support the decision made.

Further, the IA assumes that 20 per cent of shoots that cannot obtain an individual licence will cease to operate based on consultation responses. The IA also explains that the impacts from the relocation of shoots have not been quantified because “*the data suggests the majority of shoots will stay in the same location and modify their activities.*” While the RPC acknowledges that the analysis in the IA indicates that a low number of shoots will cease to operate and most will modify their activity, the IA should include evidence and analysis on the proportion of shoots that may relocate as a result of the proposal, especially in the case where shoots rent land from farmers.

### **Counterfactual**

The IA states that “*the number of gamebird releases have increased significantly in recent years*” but does not appear to have considered this trend in its analysis. The IA should be improved through discussion on whether or not the Department expects gamebird releases on EPS to increase over the short appraisal period, and if appropriate, quantify the additional impact on business.

### **Impact on Civil Society Organisations (CSOs)**

The IA states that CSOs could be impacted “*through lost rent if a shoot no longer conducts activities on the land*”. However, the IA would be improved through discussion on the number of CSOs likely to be impacted, the size of rent payments, and how many gamebird shoots operate on land owned by CSOs. Further the IA should identify and analyse the possible impacts of the proposal on other relevant types of CSOs, such as shooting clubs.

## **SaMBA**

The IA states that “*the policy options will predominantly affect micro businesses as most shoot providers employ fewer than 10 full time equivalent employees.*” The IA

also explains that exempting SMBs would significantly reduce the effectiveness of the policy options. However, the IA should quantify what proportion of the proposal's impact is likely to fall on SMBs and should consider the possible use of mitigation measures for SMBs, using RPC guidance<sup>2</sup> to assist where appropriate.

The IA usefully includes Figure 1 which shows the results of the Public and Corporate Economic Consultants (PACEC) Survey of Providers in 2014, used to assess the proportion of businesses with different numbers of employees. This figure clearly shows that there is a high level of self-employment in the sector. The IA would be improved through analysis of whether the proposal is likely to impact on the number of self-employed operators when shoots cease to operate or move location.

## Cost-benefit analysis

### Evidence and data

The IA notes significant issues relating to the lack of evidence available, including heavy reliance on uncorroborated evidence provided by the industry. While the RPC recognises that the Department has improved this IA by including further evidence, we recommend that the Department continues to improve the evidence and reduce uncertainty where possible, so as to be able to complete a full and robust review of the policy.

The IA explains that the benefits of the proposal include the “*reduction in eutrophication of soil and the depletion of vegetation immediately within and around release pens and feeding stations*”. While the RPC acknowledges the time constraints and lack of available evidence, the IA should attempt to provide further analysis and, if possible, quantify the environmental impacts of the proposal using evidence to support its calculations. Further, the Department should ensure that any impact on non-EPS sites from the relocation of shoots is also considered.

## Wider impacts

### Indirect business impacts

The IA must include analysis on all businesses impacted by the proposal. For example, the IA should include discussion on the possible impacts to farming businesses, which could be affected by the release of gamebirds, and businesses that raise gamebirds to sell to the shooting industry, which could be affected by both shoots ceasing to operate but also a reduction in stocking densities.

### Impacts on public sector

The IA states that the proposal “*will make it a criminal offence to release pheasant and red legged partridges on or within 500m of European sites, without a licence*” and also that some gamebird releasing activity is already subject to enforcement action by Natural England. The IA should include detail on how enforcement would be carried out and also whether fines would be issued for noncompliance.

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<sup>2</sup> <https://www.gov.uk/government/publications/small-and-micro-business-assessment-samba-guidance>

The IA also explains that the Department believes “*the level of industry compliance with the Animal and Plant Health (APHA) poultry register is very low at present*”. The Department should explain what it plans to do to increase industry compliance and expand on how the interim licencing regime will interact with the APHA poultry register and Natural England’s current review of the consent system.

## Monitoring and evaluation plan

The IA explains that “*Natural England is currently in the process of reviewing their whole approach to the consenting regime*” which can include gamebird releases. While the RPC acknowledges that Natural England’s approach is broader than just focusing on gamebird releases in isolation. The IA must explain in more detail how the environmental impacts of this proposal will be monitored and evaluated, including its effectiveness in protecting EPS.

Further, the Natural England review appears to focus on environmental impacts. The IA must explain in detail how the impacts on business will be monitored. In doing so it should discuss whether licence applications and data on individual licence holders will be used to help gather information on administration costs. The IA must also explain how the number of shoots that close as a result of the policy will be monitored and how the Department will continue to build on the current evidence base to support a future review of the policy.

### Regulatory Policy Committee

For further information, please contact [regulatoryenquiries@rpc.gov.uk](mailto:regulatoryenquiries@rpc.gov.uk). Follow us on Twitter [@RPC\\_Gov\\_UK](https://twitter.com/RPC_Gov_UK), [LinkedIn](#) or consult our website [www.gov.uk/rpc](http://www.gov.uk/rpc).