



## Introduction

The aim of this guide is to highlight aspects of the legislation relating to the use of legally held firearms for culling or dispatching wild deer. It is not a complete discussion of all aspects of legal firearms possession and use. For the purposes of this guide it is assumed that any firearms and ammunition referred to are legally held and suitable for purpose. This guide is linked to the Deer Legislation guide.

## General

Current firearms legislation is complex, the main statutes being the Firearms Acts, 1968 to 1997 together with the Firearms Rules 1998 which deals specifically with certification. This guide cannot cover all aspects of the legislation and definitive meanings must be taken from the legislation itself and any subsequent case law.

There are two Home Office guides on the subject of firearms:

Firearms Law: Guidance to the Police (2002) <sup>1</sup>

Firearms security handbook 2005 <sup>2</sup>

## Certification

Three main classifications of firearms exist:

- ◆ firearms (usually rifles) (section 1)
- ◆ prohibited weapons such as most pistols (section 5)
- ◆ shotguns (section 2)

Note that separate component parts (i.e. pressure bearing components such as barrel, bolt or action, as well as sound moderators and flash suppressors are also regarded as firearms in their own right.

Possession of Section 1 and 5 firearms requires a firearms certificate (FAC), for a shotgun a shotgun certificate (SC) is required. There are a number of statutory conditions.

- ◆ the holder must, on receipt of the certificate, sign it in ink;
- ◆ firearms and ammunition must be kept in a secure place, when not in use;
- ◆ any theft, loss, destruction or deactivation of a firearm must be reported to the police;
- ◆ any change in permanent address must be notified to the police;

In addition a chief officer of police may add further conditions. These will include details of the firearms to be purchased/acquired and possessed. In particular the shooting and/or dispatching of deer must be covered within the wording of the FAC which must also include a condition to allow the possession and use of expanding ammunition in connection with shooting deer.

Home loaders should note that both loaded cartridges and expanding missiles (bullets) count towards the ammunition allocation on the FAC.

Certificate conditions stipulate that firearms and ammunition when not in use, must at all times be stored securely so as to prevent, so far as is reasonably practicable, access by unauthorised persons. Security of firearms is covered in the Rifle Security, Storage and Transport guide and in the two Home Office guides<sup>1,2</sup> referred to in the Further Info section of this guide.

It is sensible to carry an FAC/SC when the firearm is away from its usual storage place.

## *Young persons*

Children under the age of 14 (other than members of a cadet corps or Home Office approved club) cannot possess (or use) section 1 firearms or ammunition. Between the ages of 14 and 17 young persons can possess and use a section 1 firearm provided that they hold a valid FAC and use it according to the conditions on the FAC. They may not, however, purchase or hire firearms and ammunition and therefore, in order to acquire either, they must rely on a gift or loan and both parties must possess a FAC authorising the transaction.

## *Exceptions*

Although all firearms must be linked to a certificate there are certain circumstances when a firearm can be possessed, usually temporarily, without a certificate. The following situations are relevant to deer:

## **The so called “estate rifle” provision**

The Firearms (Amendment ) Act 1988, Section 16 states that a rifle may be borrowed, by a person aged 17 or over, from the occupier of private premises (which includes land) and used on those premises in the presence of\* the occupier or his servant, provided that the latter holds a firearms certificate allowing the use of that rifle and that it is used according to the conditions on that certificate. Ammunition is usually provided by the certificate holder and any surplus must be returned to them. It is generally accepted that the holder of sporting rights to deer would be considered as an occupier for this purpose but this has not been tested by the courts and any challenger would have to prove their case beyond reasonable doubt.

\*The Home Office suggests the phrase “in the presence of” means “within sight or hearing”. The lender of the firearm may consider that any supervisor should additionally be “in a position to intervene” to ensure safe and humane use and that the conditions of the certificate are upheld.

## **Carrying a firearm (rifle or shotgun) for the certificate holder**

A person, including a child, may carry, but not use, a firearm or ammunition belonging to another person without the need for a firearm certificate, providing it is for the certificate holder’s use, under his instruction, and for a sporting use only. This applies to ghillies, gun bearers, loaders etc.

## *Shotguns*

Shotgun certificate holders can borrow a shotgun from another certificate holder for up to 72 hours. A person without a certificate can borrow a shotgun from the occupier of private premises provided it is used on those premises and “in his presence”.

# Permitted firearms

These firearms and ammunition are permitted for killing deer in England and Wales.

Rifles and Ammunition:	Calibre of not less than .240 inches and a muzzle energy of not less than 1,700 ft/lb (both restrictions apply) Bullet must be soft-nosed or hollow nosed. (these are expanding ammunition types) Muntjac and Chinese water deer only. Calibre not less than .220 inches and a muzzle energy of not less than 1,000ft/lbs. Bullet must be soft-nosed or hollow-nosed weighing not less than 50 grains.
Shotguns and ammunition: these are generally prohibited but the following exemption applies in certain circumstances, amongst other conditions serious damage by deer must be proved, see the Deer Legislation guide)	Not less than 12 bore. A shotgun may only be used by the occupier and certain others. Ammunition must be AAA shot or rifled slug of not less than 350 grains. (an FAC is required to possess rifled slug ammunition)
Prohibitions:	Any airgun , air rifle or air pistol

Any firearm may be used for the humane dispatch of deer including one defined as a “slaughtering instrument”, see the Deer Legislation guide. The use of a pistol for humane dispatch is permitted. It is not recommended nor usually necessary that a pistol is carried during the course of normal deer stalking. FAC firearms used for humane dispatch not connected with normal deer stalking activities must have the appropriate condition on the FAC.

## Use of Firearms

### Authority to be on land

Users of firearms should be able to show authority to be on land with a firearm. The authority is given by the owner of the land or the holder of the sporting rights to deer. Verbal authority is sufficient but it is recommended that it is given in writing to avoid uncertainty if challenged by the police with respect to armed trespass or poaching.

### Public places

Under section 19 of the Firearms Act, 1968 it is an offence “without lawful authority or reasonable excuse” to have a loaded shotgun or loaded air weapon or any other firearm (e.g. a rifle), loaded or not”, together with suitable ammunition for that firearm, in a public place.”

A “public place” is defined as any highway and any other premises or place to which at the material

time the public have or are permitted to have access, whether for payment or otherwise.

Firearms users should always be conscious of whether they have a “lawful authority or reasonable excuse” to be in possession of a firearm and ammunition in public places.

### Highways

Section 161 of the Highways Act, 1980 states that “It is an offence without lawful authority or excuse to discharge any firearm within 50 feet of the centre of the highway and in consequence of which a user of the highway is injured, interrupted or endangered.” Although a complaint from a road user is required to invoke this legislation it is best to avoid shooting near highways and certainly not across them.

This legislation applies only to public roads used by vehicles, not public footpaths, other rights of way or buildings. However it is common sense to take extra care in these situations and to avoid unnecessary disturbance.

### Shooting from vehicles

The Deer Regulatory Reform Order 2007 amended section 4(4) of the Deer Act, 1991 to permit the shooting of deer from a mechanically propelled vehicle (including an aircraft or boat) provided that it is stationary and the engine switched off. Shooters are strongly discouraged from driving into an area, pulling to a stop and shooting from a vehicle without first checking for a safe background.

## *Trespass with a firearm*

Under section 20(1) and (2) of the Firearms Act, 1968 it is a criminal offence to enter or be upon any land (including water) or building as a trespasser whilst in possession of a firearm without reasonable excuse.

This is most likely to occur accidentally in the case of a mistaken boundary, knowledge of precise boundaries is obviously essential.

If a boundary would have to be crossed to follow up a deer that ran across a boundary after being shot, or to find an injured deer from, say, a car accident, there is a defence if the trespasser genuinely believed that the landowner would have given their consent. However, despite the moral arguments, this is a poor defence and especially if a firearm was carried at the time.

It is recommended that, if possible, previous arrangements are made with adjacent landowners or tenants to allow for this type of situation. If such an agreement is not in place do not enter the land and make strenuous efforts to contact the adjacent owner or tenant, if necessary abandoning the deer until such contact can be made.

Avoid any situation whereby a missile would pass over or into land for which the shooter has no shooting permission.

## *Visitors bringing firearms from abroad*

Visitors wishing to bring a firearm into, or possess one in Great Britain, must obtain a visitor's firearm permit (VFP). Applications must be made on the visitor's behalf by a sponsor or representative in Great Britain, to the chief officer of police for the

area in which they live. A good reason to possess the firearms must be given. Forms are available from police stations or licensing departments. The sponsor or representative does not have to hold a firearm certificate themselves. Visitors from EU countries must in addition possess a European Firearms Pass (EFP) which must accompany the VFP application form. Both permits must be with the visitor at all times when entering Great Britain and when in possession of firearms whilst here.

## *Taking firearms abroad*

Each country and sometimes local districts may have different requirements. Visitors to those countries are strongly recommended to check before travelling. The same precautions apply to the chosen method of transport, particularly with airlines. Travellers to EU countries must obtain an EFP, obtainable free of charge from the local police firearms licensing department. The EFP must be carried with the firearm and visitors should be able to provide proof of the reason for their trip.

## *Further Info*

Parkes, C. and Thornley, J. (2009) *Deer: Law and liabilities*. Quiller.

<sup>1</sup> Firearms Law: Guidance to the Police (2002). (does not include the revisions of the Deer Act 1991 made after publication) <http://police.homeoffice.gov.uk/publications/operational-policing/HO-Firearms-Guidance.pdf?view=Binary>

<sup>2</sup> Firearms security handbook 2005: <http://police.homeoffice.gov.uk/publications/operational-policing/firearms-handbook.pdf?view=Binary>