

Legal

JAY ARMSTRONG

Ticket to ride

by Matthew Knight, Senior Partner,
Knights Solicitors.



WHEN I WANTED MY FIRST SHOTGUN LICENCE (JUST OVER 50 YEARS ago!) the process was a lot simpler than it is today: I took a Ten Shilling note to the nearest Post Office and came away with a Shotgun Licence that looked a bit like a highly organised bus ticket. Nothing much was required apart from the money and a few details about the young me.

Things were a bit more complicated when I needed to renew it some years later in the late 1960s and they have become progressively more complicated in the last 45 years. There is not the time or the space to rehearse all the areas of complication in this article but it would be sensible to focus on one that is perhaps the most troubling for gamekeepers and all those who apply or re-apply for Shotgun Certificates: the increasing tendency of police forces to insist that applicants or re-applicants for Shotgun Certificates are “fit to be entrusted with a firearm” which applies to those who seek Firearm Certificates but for which there is no basis in Law for those who apply or re-apply for Shotgun Certificates whether under the Firearms Act 1968 or at Common Law and to prove it with a formal medical certificate from General Practitioner.

Now readers may ask: “If that is the case why have the offending police forces not been pulled up short by the Courts?” and the short answer is: “Because it is much cheaper to pay GPs to produce medical certificates than it is to pursue an Appeal under the Firearms Act 1968”.

The NGO is working hard on several levels to address this unfair and unlawful behaviour by some police forces, but for the moment we all have to live in the world as it is rather than as it ought to be. As a result, we all need to think how we can best avoid problems arising out of health issues.

The first essential is to be registered with a GP practice and to establish a personal and professional relationship with at least one of the GPs there. Some people are reluctant to go anywhere near a GP and, although that attitude is laudable in its way, it



NOTE IT!**KNIGHTS SOLICITORS**

Matthew Knight is the Senior Partner of Knights Solicitors. He has over 30 years' experience of giving legal advice and assistance to the holders of Shotgun Certificates and Firearms Certificates. Knights Solicitors is a specialist litigation practice well-known for representing clients with animal and countryside interests on a national level. The company provides the NGO with a legal helpline service (see below). Tel: 01892 537311, www.knights-solicitors.co.uk. Ask for Matthew Knight, Richard Atkins or Jonathan Manser.

NGO FREE LEGAL HELPLINE

NGO members in need of emergency legal advice relating to gamekeeping and field sports can call the helplines below. Up to 30 minutes telephone advice is available free of charge as a benefit of your NGO membership.

For those in the South: Matthew Knight, Richard Atkins and Jonathan Manser, Knights Solicitors (Tunbridge Wells), 01892 537311 (24hr line).

For those in the North, Scotland and Wales:
Michael Kenyon, Solicitor (Macclesfield), 01625 422275 or 07798 636460.



is likely to be pretty unhelpful if you need to apply or re-apply for a Shotgun Certificate (or for a Firearms Certificate). Accordingly, all gamekeepers and other shotgun or firearms users need to make sure that they are registered with a GP practice and would be well advised to visit it at least once before applying or re-applying for a Shotgun Certificate (or for a Firearms Certificate).

The second thing is to make sure that if you move house (perhaps when you get a new position with a new employer) that you register with a new GP practice near to your new home at about the same time as you notify the police that you have moved house. There is nothing more likely to elicit a refusal for your Shotgun Certificate (or Firearms Certificate) application or re-application than to give a GP practice in Durham as your doctor if your home address is now in Devon. Obviously there may be circumstances where there are good reasons for this contradiction but if that is the case you need to brace yourself for a battle with the issuing police force before you get your new Shotgun Certificate (or Firearms Certificate) if this is what your situation is.

In today's world it probably makes sense to have a working knowledge of the legal framework generally and it is probably a good idea for all NGO members to read the NGO publication *Sporting Shooting and the Law: a user's guide to the Firearms Act* (£8

from the NGO's online shop at shop.nationalgamekeepers.org.uk) which is accepted by the police, kept updated regularly and is routinely distributed to all UK police forces by the NGO.

The Firearms Act 1968 (as amended) is worth reading, as is the Home Office publication *Firearms Law: Guidance to the Police*. Familiarity with the 1968 Act and with the Home Office publication is very likely to be helpful if you need to get into any sort of discussion when you apply for or re-apply for a Shotgun Certificate (or for a Firearms Certificate). A working knowledge of both is likely to be taken by the issuing police force as a sign that you have a responsible attitude to shotgun (or firearms) ownership generally.

As a matter of Law, the police simply need to be satisfied that you can be permitted to possess a shotgun or shotguns (or a firearm or firearms) without danger to the peace or to public safety.

A Shotgun Certificate ought to be granted by the police unless the police are satisfied that the applicant does not have a good reason for possessing a shotgun: this puts the onus on the police to prove this negative. If the police cannot do so then your Appeal against the refusal of a Shotgun Certificate ought to succeed.

For a Firearms Certificate it is the other way round: the applicant or re-applicant must demonstrate a good reason for requiring the rifle, humane

killer, repeating shotgun, heavy shotgun ammunition, or whatever.

Section 28(1)(B) of the 1968 Act expressly states that an applicant or re-applicant for a Shotgun Certificate is to be regarded as having a good reason for possessing a shotgun if (s)he intends to use it for sporting or competition purposes or for shooting vermin. (S)he does not have to show that (s)he has permission or a right to use the shotgun at a particular place or in a particular competition or to protect particular crops or livestock at a named location. It is the other way around for Firearms Certificates, of course.

Other points to note are that the Rehabilitation of Offenders Act 1974 does not apply to applications under the Firearms Act 1968. All previous convictions must be disclosed under the 1974 Act, whether they are spent or not, when applying or re-applying for a Shotgun Certificate (or for a Firearms Certificate).

Motoring offences and criminal or regulatory convictions received outside the UK must also be disclosed under the 1968 Act.

Any relevant medical conditions must be disclosed. Nowadays all applications under the 1968 Act require disclosure of the applicant's GP's details and the applicant or re-applicant has to give written consent to the GP to discuss the applicant or re-applicant with the police.

It is probably the case that nowadays any history of mental illness, even if it was mild and is now in the past, will result in a refusal. If your GP is supportive, an Appeal ought to be pursued and ought to be successful.

Finally, make a note of when your Shotgun Certificate (or Firearms Certificate) is going to expire at least a year before it does expire (most Shotgun Certificates and Firearms Certificates are issued for five years) and make sure that you apply to renew it at least three months before the expiry date.

Most police forces issue reminder letters around two months before your Shotgun Certificate (or Firearms Certificate) runs out, but there is no statutory duty on police forces to do this: it is your duty to apply for renewal well before your Shotgun Certificate (or Firearms Certificate) expires.