

Legal

Keeping your powder dry

by Matthew Knight of Knights Solicitors

THE GENERAL RULE

IT IS AN OFFENCE UNDER THE FIREARMS ACT 1968 (the 1968 Act) to purchase or have in your possession ammunition defined under the 1968 Act, for any firearm, whether for use with a firearm or not, including prohibited ammunition, without having the appropriate certificate. Possession is an absolute offence and so having ammunition or having access to prohibited or unlicensed ammunition, which is not licensed to that individual, is sufficient to fall foul of the law.

AMMUNITION FREELY PURCHASABLE

Under Section 1 of the 1968 Act, the following are exceptions to the above rule

and it is therefore possible for anyone to purchase and possess these (with the exception of persons prohibited under Section 21 of the 1968 Act and there are special rules for those aged under 18), they are:

1. Shotgun cartridges containing five or more pieces of shot, none of which exceeds 0.36 inches in diameter;
2. Ammunition for an air gun, air rifle or air pistol or any other weapons using compressed air or gas; and
3. Blank cartridges that do not exceed one inch in diameter.

In addition inert cartridges and ammunition mounted on displays or used as keyrings, etc, are exempt.

Although shotgun cartridges do not have to be stored in any particular place or manner, it is prudent to do so sensibly and securely.



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PROHIBITED UNDER SECTION 21

Those prohibited under Section 21 of the 1968 Act cannot possess any kind of ammunition, even ammunition exempt under Section 1 of the 1968 Act. The Criminal Justice Act 1972 states that to fall under Section 21 you must:

1. Have been sentenced to imprisonment for a criminal or regulatory offence in any part of the United Kingdom; or
2. Detained in a young offenders institution or kept in youth custody.

From 14 July 2014 suspended sentences of three months or more are sufficient for Section 21 of the 1968 Act to apply. Furthermore, courts imposing suspended sentences have the power to cancel firearm or shotgun certificates, as do the Police.

The period of prohibition lasts for five years from the second day after the date on which the sentence is passed. This gives time for the appropriate disposal of firearms and ammunition before they are no longer permitted. It is possible to apply to the Crown Court to have the prohibition removed and this is generally looked upon favourably if the offence was not related to violence or the use of firearms.

EXPANDING AMMUNITION

All types of expanding ammunition are prohibited under Section 9 of the Firearms (Amendment) Act 1997 which amended the 1968 Act. If the ammunition is designed to expand or is adapted to expand on impact then it is prohibited.

Under Section 10 of the 1997 Act the exception to this prohibition is if the expanding ammunition is for:

1. The lawful shooting of deer;
2. The shooting of vermin or activities in connection with the management of any estate or other wildlife;
3. The humane killing of animals;
4. The shooting of animals for the protection of other animals or humans.

It is possible to use expanding ammunition for activities related to the above, for example practice shooting or testing or zeroing. To make use of expanding ammunition, it is necessary to satisfy



the Chief Officer of Police for your area that there is good reason for you to possess the ammunition to carry out all or any of the above activities. This would modify the firearms certificate so that the intended use and the exact quantity of the expanding ammunition are recorded. Purchasing expanding ammunition in bulk to save money is not sufficient reason to go beyond the allotted amount in the certificate and if you want to do this, you must make sure that your firearms certificate allows you to buy and hold economic quantities of ammunition.

There are also special rules surrounding lead shot (or shot containing more than 1% lead) due to concerns about the damaging effects of lead entering ecosystems or the human or animal food chain. There are slightly different rules for England, Wales, Scotland and Northern Ireland.

LEAD SHOT

In England you cannot use lead shot:

- On or over any area below mean high-water mark of ordinary spring tides;
- On or over any site of special scientific interest (a list of which can be found in Schedule 1 of the Environmental (Restriction on Use of Lead Shot) (England) Regulations 1999;
- To shoot any of the following wild birds (note that the scientific name is used in the event of a dispute), namely:
 - Coot (*Fulica atra*);
 - Ducks, geese and swans (*Anatidae*);
 - Moorhen (*Gallinula chloropus*);

In Wales the rules are similar to England except that the Sites of Special Interest are ones in Wales and they are listed in Schedule 1 of the Environmental Protection (Restriction on Use of Lead Shot) (Wales) Regulations 2002.

In Scotland it is illegal to use lead shot over wetlands as defined under the Ramsar Convention as: “*areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres*”.

In Northern Ireland the rules are very close to those of Scotland and are therefore as above.

STORING AMMUNITION

The Firearms Rules 1998 No 1941 states that ammunition under the 1968 Act, except those exempt, should be stored securely so as to prevent, so far

NOTE IT!

KNIGHTS SOLICITORS
 Matthew Knight is the Senior Partner of Knights Solicitors, Tunbridge Wells. Knights Solicitors have dealt with numerous investigations and prosecutions under the Animal Welfare Act 2006 and Wildlife & Countryside Act 1981. Knights Solicitors specialise in countryside and country sports litigation and have acted on behalf of gamekeepers throughout England and Wales. Tel: 01892 537311, www.knights-solicitors.co.uk. Ask for Matthew Knight, Richard Atkins or Joshua Quinn.

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 Joshua Quinn, 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.

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as is reasonably practicable, access to the ammunition by another person who is not authorised to purchase or use it. This does not apply, although reasonable precautions are to be taken, when:

- The ammunition is in use;
- When the certificate holders are cleaning, repairing or testing firearms or ammunition in connection with the use, transfer or sale of that firearm or ammunition;
- Other uses connected to its use, transfer or sale;
- When in transit in connection with any of the above.

Ammunition is to be kept separate from the firearms that they are designed for but is to be stored with the same security as those firearms are. There are no statutory provisions on how one is safely to store their ammunition but the *Firearms Security Handbook* provides guidance on how to do so and should be used when deciding upon what level of secure storage is necessary. There are security considerations that must be made to decide what the appropriate level of security is required, such as:

- Crime in the area;
- Remoteness of the premises;
- Illumination of the property;
- Location of storage within the property;
- How attractive they are to criminals;
- If it is generally known that firearms are kept there.

It should be noted that shotgun cartridges containing five or more shots, none of which exceeds 0.36 inches in diameter do not have to be stored in any particular place or manner, but it is generally regarded as prudent to do so anyway. Liaising with police is a good way to ensure that your security arrangements are satisfactory and can help avoid problems that may be out of your control in the future.

ANTIQUÉ AMMUNITION

Even a century after it ended there is still some World War One ammunition knocking about and, from time to time, you hear about World War Two arms and ammunition being used. If you are offered such arms or ammunition under any circumstances and in any condition it is sensible to refuse it unless you are satisfied that it is fully deactivated and safe or is a curio or exhibit (see the exemption for mounted displays above). Until the early 1990s there was quite a lot of solid ball Home Guard ammunition knocking around and from time to time friends may return from France or Germany with rifled slugs which are legal there, but illegal in the UK. If you succumb to temptation and are caught with such ammunition you are likely to be prosecuted and, if convicted, three years’ imprisonment is probable. You have been warned!