

Certification and permission

Production of certificates

The police have powers to demand the production of shotgun certificates from people they believe to be in possession of shotguns or ammunition, and to seize the guns in the event of noncompliance. For this reason you should always take your certificate with you when out shooting. However, modern technology should make this unnecessary as the police can easily check, even out of working hours, whether you are a genuine certificate holder.

Certificates contain a large amount of personal information. In order to reduce the risk of identity fraud if the certificate is stolen from your car you may find it easier to carry a photocopy with the address, date of birth and signature blanked out. Some police forces try to insist that you send in the expiring certificate when you apply for a new one. There is no legal authority for this and you lay yourself open to having your guns confiscated if you are found in possession and unable to produce a certificate at the time. Offer the police a scan or photocopy of the certificate if they wish to check it against their records.

Age limits

There is no minimum age at which a person may be lent a shotgun and hence no minimum age for obtaining a shotgun certificate. The age limits for possessing shotguns are:

Anyone under the age of 15 who has an assembled shotgun with him must be under the supervision of a person aged at least 21 unless the gun is in a securely fastened gun cover such that it cannot be fired. There is no legal definition of “supervision” in this context but common sense dictates that the supervisor should be close enough to the user to ensure he can control the actions of the person he is supervising. It is recommended that, except during properly organised target shooting, supervision should be on a one to one basis. In some cases it is cheaper and more convenient for an adult to keep a shotgun intended for use by a young person on his own certificate and then loan it rather than for the youngster to apply for a separate certificate. Persons under the age of 15 may not buy or be given a shotgun but they may be lent one.

- **15 to 17** - You may be given a shotgun but you cannot buy a gun or ammunition. You may shoot unsupervised.
- **18** - This is the minimum age at which you may purchase or hire a shotgun and ammunition.

Borrowing a shotgun

Anyone may borrow a shotgun from another person on **private premises** provided certain conditions are met

- a. The lender must be aged 18 or over and must hold a certificate in respect of the gun being loaned.
- b. The shotgun may only be used for shooting game or vermin or shooting at artificial targets. Game in this context means animals and birds hunted for food or sport, so includes wildfowl. Artificial targets include clays.
- c. The lender must be either
 - i. A person who has the right to allow others to enter the premises for the purposes of shooting game or vermin. Game in this context includes wildfowl.
 - ii. A person who is authorised in writing by a person in c(i) above to lend the shotgun either generally or to specific individuals.
- d. The borrower must comply with the conditions in the lender's certificate.
- e. The borrower must be in the presence of the lender or of another person **authorised** under c(i) or c(ii) above who holds a shotgun certificate.

Private premises

Private premises means premises to which the public have no access other than by permission of the owner, **occupier**, or lessee of the premises. Premises includes both buildings and land.

Authorised person

An authorised person for most purposes is the owner or occupier of the relevant land or any person authorised by the owner or **occupier**, including the shooting tenant and gamekeepers. In some cases, local authorities and certain statutory authorities may also grant authority.

Occupier

Under the Wildlife and Countryside Act 1981 an occupier, in relation to any land other than the foreshore, includes any person having any right of hunting, shooting, fishing or taking game or fish.

Presence and supervision

The word “presence” appears several times in the Act and is generally understood to mean within sight and/or earshot, although there is no clear legal definition. In a 2011 Crown Court case in Mold it was held that someone shooting rabbits with a borrowed rifle from an upstairs window was in the presence of the certificate holder who was in a downstairs room. “Supervision”, also found in the Act in relation to young persons, requires that a tighter level of control be exercised over the user.

Casual use

A shotgun certificate may be issued even though the applicant has no intention of acquiring a gun of his own. This might be the case, for example, where the applicant wishes to borrow a shotgun for periods of 72 hours or less but not be subject to the restrictions placed on borrowed shotguns.

Carrying a gun for another person

Under Section 11(1) of the Act no certificate is needed if you are carrying a shotgun or ammunition belonging to someone else for use by that person for sporting purposes. This exemption is mainly intended to cover loaders on a shoot day and does not permit unaccompanied transport of the guns concerned, such as by a chauffeur. If the bearer is under 18 the person for whom the gun is being carried must be over 18.

Retrieving shot game from neighbouring land

In England and Wales you commit trespass if you shoot game or pests over your own land which falls alive or dead on your neighbour’s ground and either you or your dog goes to fetch it. Despite the obvious animal welfare considerations there is no automatic right to retrieve wounded birds or animals from neighbouring land. Shoots and private individuals should come to a reciprocal arrangement which allows for wounded birds to be retrieved. Failing such an arrangement, the wounded creature will have to be left.

Trespass

Anyone who enters, shoots on or sends his dog on land without the permission of the landowner, or in contravention of open access legislation, is a trespasser and may be sued for damages or in persistent cases be restrained by injunction or interdict. Trespassers may be asked to leave the land and be escorted to the boundary using no more force than is necessary. It is also trespass to exercise lawful rights in such a way as to interfere with the land over which the rights are exercised. So, for example, people who walk repeatedly along a public footpath in such a way as to disrupt a shoot might be restrained by an injunction or be subject to a claim for damages.

Armed trespass – England and Wales

If you are carrying a firearm, shotgun, antique firearm or air gun, whether loaded or not and even if you have no ammunition, it is an offence to trespass without reasonable excuse. Reasonable excuse is not clearly defined so if for any reason you need to enter into land over which you do not have the shooting rights or other right of access you should leave your gun behind. Whereas trespass is a matter for civil action, armed trespass is a criminal offence.

Armed trespass – Scotland

In Scotland the Land Reform Act (Scotland) 2003 and the accompanying Scottish Outdoor Access Code have effectively modified the provisions of the Firearms Act in relation to armed trespass. In Scotland you would not be guilty of armed trespass if you were crossing land or water to get directly to or return directly from other land or water over which you had the right to shoot. If you were on land or water or in a building for any other purpose the offence of armed trespass would still be committed.

Sporting rights - England and Wales

In England and Wales the right to kill wild animals and birds lies with the occupier of the land unless the landowner has specifically reserved this right for himself. The holder of the sporting rights may exercise them himself, lease them or give oral permission to somebody else to exercise them. A shooting lease should always be in writing and by deed as oral permission only confers a licence to shoot,



although if oral permission has been given and rent paid the tenant would be entitled to reasonable notice of termination. Ideally leases should be drawn up by a solicitor and use such wide ranging phrases as “hunting, shooting, killing and carrying away all manner of game, wildfowl and other wild animals and birds”.

Shooting rights do not automatically include the right to rear and release game so this must be included if you wish to do so. The Country Land and Business Association and BASC have model sporting leases. In its legal sense the word “game” has a narrow meaning and if used alone could be unduly restrictive. Any game killed is the property of the holder of the sporting rights, as is any game shot over the land but which falls on neighbouring land.



Shooting over a boundary constitutes poaching © A.Hook

Sporting rights - Scotland

Scottish law differs slightly and the right to kill birds and animals lies with the landowner unless he has expressly let it to the tenant. The right to kill ground game lies with the occupier. If the tenant of the land also has the shooting rights he is not allowed to sublet without the permission of the landowner so it follows that the shooting tenant should normally hold his lease from the landowner.

Poaching – England and Wales

Anyone trespassing by entering on land in pursuit of game, woodcock, snipe or rabbits may be committing a poaching offence. Searching for game without actually having taken any is sufficient to count as poaching. Poaching at night is a more serious offence than poaching during the day, particularly if the poachers are numerous and armed with firearms or other weapons. Shooting over the boundary constitutes poaching irrespective of whether you or your dog retrieve the game. Taking or destroying the eggs of game also constitutes poaching. There is a little known power arising from Code B of the Police and Criminal Evidence Act 1984 which gives the police the right to require a person to retain an object as evidence. This can be useful for dealing with poachers especially if dogs etc are concerned. It means the owner cannot dispose of the item without risking prosecution and can potentially be hugely inconvenient to a suspected poacher.

Poaching – Scotland

The former legislation covering poaching has been repealed and the offence is now covered under revisions to the Wildlife and Countryside Act which gives the police greater powers than they had under the old legislation. It is an offence to take any bird (or its eggs) or animal without having the legal right to do so. Enforcement lies with the police and there are no special powers for landowners or gamekeepers. Searching for game without actually having taken any does not constitute poaching but can be prosecuted as an attempt to commit an offence under the Wildlife and Countryside Act.

Single witness evidence is admissible for certain offences involving grouse, partridge, pheasant and ptarmigan. If you shoot game over your own land and it falls alive on neighbouring land you would be a poacher if you or your dog went to retrieve it but you could always argue it was mercy killing.