

## ***FIREARM SECURITY***

Security of both Firearms and Shotguns is dealt with in Sections 3 and 4 of the Firearms Rules 1998 (as amended) which provide statutory conditions to be adhere to;

### **Firearm certificate conditions**

Condition 4 (a)

*“The firearms and ammunition to which the certificate relates must at all times (except in the circumstances set out in paragraph (b) below) be stored securely so as to prevent, so far as is reasonably practicable, access to the firearms or ammunition by an unauthorised person; ”*

Condition 4 (b)

*“Where a firearm or ammunition to which the certificate relates is in use or the holder of the certificate has the firearm with him for the purpose of cleaning, repairing or testing it or for some other purpose connected with its use, transfer or sale, or the firearm or ammunition is in transit to or from a place in connection with its use or any such purpose, reasonable precautions must be taken for the safe custody of the firearm or the ammunition.”*

### **Shotgun Certificates**

Condition 4 (a)      The wording is exactly as for Firearms, except  
                                  ... access to the guns by an unauthorised person

Condition 4 (b)

The wording is exactly as for firearms BUT for “firearm” read “shotgun“ and note that the condition does **NOT** include shotgun ammunition.

As you can see the rules are the same for both firearms and shotguns, except for the requirement to store firearm ammunition (Section 1) securely.

There is NO statutory requirement for cabinets, separate storage of rifle bolts, nor special locks, nor burglar alarms: Each case must be judged on its individual merits. However, you should **always** take reasonable precautions for the safe storage of your guns – and a properly fixed gun cabinet will usually offer the most cost-effective method.

Additional advice can be found in the Home Office Security Handbook 2005<sup>1</sup>

### **The statutory duty to take reasonable precautions for the safe custody of firearms.**

The term *“take reasonable precautions for the safe custody”* is used consistently within the Firearms Acts 1968 - 1997 and the Firearms Rules 1998 when referring to firearms and ammunition. The same expression appears within the Statutory Conditions on firearm, shotgun, registered firearm dealers certificates and visitor and temporary permits. There is also similarity of language within the Home Office publication *“Firearms Law: Guidance to the Police 2002.”*

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<sup>1</sup> <https://www.gov.uk/government/publications/firearms-handbook-2005>

Whilst the Home Office guidance has no statutory basis, it is widely regarded as being a manual for the proper administration of firearms licensing. All Chief Officers within Great Britain agreed to its adoption when it was first issued. In BASC's experience, the guidance carries considerable weight in the courts and has comparable status to an Approved Code of Practice (ACOP) in health and safety legislation.

Conditions 4(a) on a firearm and shotgun certificate provides a duty to the holder to keep their firearms secure whilst not in use. Condition 4(b) covers firearms and shotguns which are either in use, in transit or are away from a more permanent place of storage. The Firearms Rules 1998 provides these conditions and their language is identical save for the differing mention of shotguns and firearms and ammunition to which section 1 apply.

*"So far as is reasonably practicable"* - used in condition 4 (a) applies to a permanent form of storage when a gun is not in use e.g. locked in a steel gun cabinet. The statutory condition for this is written in different terms e.g. *"The firearms and ammunition to which the certificate relates must at all times (except in the circumstances set out in paragraph (b) below be stored securely so as to prevent, so far as is reasonably practicable, access to the firearms and ammunition by an unauthorised person"*. In this case the duty that falls upon the certificate holder is to store his gun securely to prevent access by unauthorised persons *"so far as is reasonably practicable"*.

This duty in condition 4(b) is defined by the phrase "reasonable precautions must be taken for the safe custody". It flows from this that there is no absolute duty to ensure the safe custody of any firearm or ammunition. However, an offence will have been committed by a certificate holder who fails to take reasonable precautions against the occurrence of a loss of a firearm in his care.

It is a fundamental tenet of UK law that the term "reasonable" is a generic expression which applies to a particular situation i.e. it is case specific. It may be defined as the standard of care taken by a prudent person having due regard to any risks to try to prevent the loss of items entrusted to him. The phrase conveys a sense of what might be described as a legitimate expectation by anyone who examines the circumstances of a loss against the precautions that had been set in place to prevent it.

Appendix 6 of the guidance sets out those conditions which the Home Office considers to be desirable to be appended to the registration certificates of firearms dealers. Condition 1 is recommended for inclusion with all new registrations. It states *"reasonable measures shall be taken to maintain the safe keeping of all firearms and ammunition dealt with or kept in the course of the Registered Firearms Dealer's business"*. Appendix 11 deals with conditions for visitor's firearm or shotgun permits. This reproduces condition 4 (b) from firearm and shotgun certificates in its entirety.

This is an entirely different duty and one which is much more stringent than the condition used when firearms are in use or transit. It is clear from this that Parliament recognised that when guns and ammunition were in use or transit etc, they should be subject to a less stringent duty of care than when they were not in use and secured in some form of permanent security measure. The phrase "reasonably practicable" means that any risk has to be weighed against the measures necessary to eliminate it.

The Home Office guidance offers advice to certificate holders as to how they might take practical measures to comply with the statutory requirement to take reasonable precautions for the safe custody of their firearms when they are in use or transit etc. Paragraph 19.47 of the guidance recommends *"Any guns should be hidden, preferably in the locked boot or other secured load carrying area of the vehicle where practicable. Vehicles used frequently for*

*transporting firearms should ideally have an immobiliser and/or alarm fitted, if the firearms are to be left unattended.”*

**Paragraph 19.48** goes on to recommend *“If the vehicle is left unattended for any reason, firearms should be concealed, preferably in the locked luggage compartment and (where practicable), an essential component such as the bolt or forend removed and kept in possession of the responsible person. Where possible any ammunition should be stored separately from the firearm and this too should be concealed from view. The vehicle should be locked, and any immobiliser or alarm should be set. If possible, the vehicle should be parked within the sight of the responsible person”*. However this advice is qualified in that it need only be done “if practicable”.

It is clear from this that the Home Office envisages that certificate holders will take sensible but rudimentary precautions to safeguard their firearms whilst travelling. It is instructive to note that the Home Office does not require some form of secure container or other restraint to be fitted to the vehicle. The vehicle’s fabric, its locks plus concealment of the firearm is considered sufficient.

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