



## FAQ – Prohibited Ammunition

### 1. What is prohibited ammunition?

Prohibited ammunition is listed in the schedule to the [Arms \(Prohibited Ammunition\) Order 2019](#). They are all described as ‘projectiles’. This means that the cartridge, powder and primer, which are separate components, aren’t included in the definition. Only the listed projectiles are prohibited.

We are most concerned about the prohibition of tracer and enhanced-penetration projectiles. There is no basis for the Police opinion that tracer is somehow more dangerous than any other projectile and the definition of enhanced-penetration ammo is so vague we aren’t completely sure what it means. We are contesting these in the [COLFO litigation](#).

### 2. How do I know if my ammunition is “enhanced-penetration ammunition”?

Enhanced-penetration ammo is defined as “projectiles that have a steel or tungsten carbide penetrator intended to achieve better penetration”. The definition is so wide we cannot be sure of its exact meaning. We think it covers bullets with a steel anywhere in the projectile, not just the core.

[The Police say that “cartridges filled with steel or lead shot are not prohibited”](#). They say that enhanced penetration ammo is ammo designed to “penetrate body armour and helmets and has no legitimate civilian use. Duck shooting cartridges do not fall within this definition.”

This opinion is not consistent with the words of the Order. But given the reaction after we pointed this out, in our opinion, there is no risk that the Police will change their approach to the definition and claim that shotgun and steel shot cartridges are banned.

### 3. I’ve read the Order but I don’t know if my ammo is included in the listed definitions. What should I do?

A classic example of this is if the box said something about steel elements or if you think it said something about steel but you threw it away. How do you know if your rounds could be “enhanced-penetration” rounds?

If you are unsure whether what you have is prohibited, even after careful study of the prohibition order definitions, you should:

- a) Ask an armourer or other expert and act on their advice;
- b) Get someone to enquire anonymously of the Police. Anonymity is suggested because possession has been an offence since 30 September 2019 and, though it would be odd for the Police to prosecute, it is not out of the question

#### **4. What is the penalty for having prohibited ammunition?**

Section 43AA of the Arms Act 1983 says that every person who possesses, supplies or sells prohibited ammunition without reasonable excuse could go to prison for up to 2 years.

#### **5. What does it mean to “possess” ammunition?**

Before the Crown can convict you for unlawful possession of prohibited ammo, it must establish beyond reasonable doubt that you:

- were aware of where the ammo is,
- were aware of what the ammo is,
- had actual or potential control of it, and
- had the intention to exercise that control.

You can't be convicted if the ammo isn't yours and you didn't know it was on your property. For example, if you move house and find tracer ammo in the back shed that you didn't know was there. You also can't be convicted if you don't know what the ammo is. For example, if you didn't know your ammo contained steel in the projectile and couldn't reasonably have known this, then you probably won't be found to have it in your possession.

You also need to be in 'control' of the ammo.

#### **6. Am I in 'control' of ammo that someone else has left in my house?**

You won't be liable for ammo that is secured in a locked safe that you don't have access to, even if the safe is on your property. But if you let a friend leave ammo somewhere you can access it, like your shed, then you will probably be found to have 'control' of it.

The moral of the story is to make sure you know exactly what is stored on your property. If a friend has left ammo behind, you should make sure you know exactly what it is.

#### **7. What should I do with my prohibited ammunition?**

Our advice is that you dispose of prohibited ammo as soon as you can. There is no current legal amnesty (this ended on 30 September). You can dispose of it by:

- a) Taking it to the police. They have indicated that ammunition will be covered by the firearms amnesty until 20 December, even though the ammunition amnesty is technically over.
- b) Destroying the projectile, so that it is no longer a projectile. You may keep the other components (cartridge, powder etc.) without liability as long as you do not have prohibited projectiles.
- c) Getting rid of it, or the projectiles, so that it is no longer in your possession or under your control.
  - This cannot be by giving it to someone else – that would be supply, which is an offence;
  - Theoretically that could be by sending the projectiles to landfill (they are essentially inert and no more risky than many other items routinely put safely into landfill), or otherwise ensuring that you do not have the ammunition and that you have not supplied it to anyone.

If you told the Police about your prohibited ammo before 30 September (during the specific ammo amnesty) period, they probably told you to hand it in before 20 December. You should be able to rely on that.

We called the Police firearms team to ask what to do if you hadn't told the Police about your prohibited ammo before 30 September. The operator and her supervisor thought the ammo amnesty went through to 20 December. They saw the 30 September date as just an incentive to get people to declare their prohibited ammo. Whether or not the Police confirm that as a firm position, you are unlikely to face prosecution if you surrender your prohibited ammo before 20 December. Given the advice their call centre has been giving, the Police will exercise their discretion not to prosecute. We hope the Police will formally confirm that.

**8. What should I do with my prohibited ammunition after 20 December?**

Recent Police statements suggest that they do not intend to prosecute people handing in their prohibited firearms and parts even if they do so after the end of the amnesty. We think this position will likely extend to prohibited ammunition but we cannot be sure.

The safest thing to do after 20 December is to either:

- Get rid of or destroy your prohibited ammo, or
- Ask someone to contact the Police anonymously on your behalf and ask them what they intend to do if someone hands in prohibited ammo.

**9. What is the risk of doing nothing with my prohibited ammunition?**

Knowingly keeping prohibited ammunition is against the law and risks prosecution. We recommend disposing of it as soon as you can. It doesn't matter that you don't intend to use it – it is an offence to have it in your possession. Full stop.

**10. What if the court case is successful? How do I preserve my right to compensation if I get rid of my prohibited ammunition?**

At the end of these questions is a form you can use to give to the Police when you hand in your prohibited ammo. Feel free to vary it as you wish. You should record the type of ammo, the quantity and the date, time and place where you handed it in. The form says that you are handing your ammo over to comply with the law but are preserving your right to get compensation if the court decides that it should be paid.

The form also covers the right to compensation if the court decides that the definition of prohibited ammunition should be changed.

If the Police refuse to accept the form, make sure you get the officer's name and make a record that you offered them the form and they refused to accept it.

This doesn't guarantee that you will receive compensation but it a way to protect your rights while still complying with the law.

**11. What if I dispose or destroy it instead? Can I still preserve my right to compensation?**

You should record the type and amount of ammo disposed or destroyed, the date, time and place you did this and, ideally, have a trustworthy person witness the disposal or destruction.

The witness should also sign the form and be prepared to give evidence later on, if needed to claim compensation.

Again, this doesn't guarantee that you will receive compensation but it is a way to protect your rights.

**12. Does this mean that I should keep my prohibited ammunition while we wait for the court decision in case it becomes legal again?**

Even if the court tosses out the current definition of prohibited ammo, this doesn't change the fact that it is still illegal to possess it at the moment. We don't recommend holding onto prohibited ammo if you don't want to risk prosecution.

**13. What kind of records should I keep to show value?**

Purchase receipts are the best and most obvious way to record value but most people don't hold onto these. If you don't have receipts or any other purchase records, the [Cartridge Collectors Club](#) may be able to give you a valuation.

**14. What if the Police search my home and find prohibited ammunition that I didn't know I had? Can I be liable for having ammo I didn't know I had?**

You would not be liable for possessing something without knowing that you have it (see question 5). If you genuinely had no idea that your ammo had, for example, steel penetration and there was no way you reasonably could have known, then you shouldn't be liable for possession.

If you have any doubts, the safest thing is to get your ammo checked by an armourer or other expert.

**15. What if I know I had prohibited ammunition at one point but I've forgotten where it is?**

This one is a bit tricky. You may be safe if you genuinely forgot you had the ammo at all. The situation is a bit different if you think you may have it but don't know where it is and can't easily identify it. It is possible that this will be considered a "reasonable excuse" for having prohibited ammo but this will largely depend on the circumstances and on the Judge if you're facing prosecution.

The safest thing to do is to check your ammo and ask an armourer or expert to check any you're not sure about.

**16. What if I'm on the way to get rid of it? Will I be liable if I'm pulled over and the Police find it in my car?**

Technically, yes, but the Police may decide not to prosecute if you're on the way to turn it in or get rid of it.

If they do prosecute, you will have to convince the Judge that you have a reasonable excuse for waiting until after the amnesty period to get rid of it. Things like "I was overseas", "I was

in hospital” or “I only just found the ammo” will probably work. But the court is unlikely to accept “I didn’t get around to it” as a reasonable excuse.

**17. What if I know I have prohibited ammo, but I only just found out that it is on the prohibited list?**

This covers situations where you know you have, for example, tracer ammo, but didn’t know that it was illegal. Unfortunately, ignorance of the law is never considered an excuse for non-compliance. We recommend you read the Order, if you haven’t already, and either check or get rid of any ammo you’re not sure about. If you want to check the Police view of the status of your ammo, we recommend you have someone else call them anonymously on your behalf.

**18. Why should I get rid of the projectile when there are a number of components to ‘ammunition’?**

The definitions in the Arms Act and Regulations are ambiguous. This is one of the reasons why we are challenging the legality of the Order in court. It is confusing and imprecise.

The ‘description’ could be either a description of what constitutes the ‘ammunition’, or simply a means of identifying it. But we think both approaches lead to the same place – get rid of the projectiles.