



# Poaching of game, deer and fish

Points to prove  
Associated offences  
Evidence and compensation



The British Association for Shooting & Conservation

# Introduction

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The British Association for Shooting and Conservation (BASC) is a national representative body for shooting sports, with a membership of 150,000.

BASC is also a representative body for the UK's professional gamekeepers, stalkers and ghillies. The association has a dedicated team of experts who specialise in this area of work. The importance of game shooting to the rural community and the wellbeing of the countryside and its wildlife is well recognised. This contribution relies on the efforts and dedication of gamekeepers, stalkers, ghillies, and land and fishery managers. However, this can be jeopardised by illegal poaching of game, deer and fish.

If a prosecution is to be successful it is vital that all incidents are reported to the police as soon as possible. This also helps with evidence gathering and identifies where police can be proactive.

A common cause for dissatisfaction in poaching cases is the lack of knowledge among gamekeepers, police officers, prosecutors and the courts. This booklet is designed to be kept in the pocket or the car as a handy point of reference should an incident occur. It advises police officers and gamekeepers of their powers and assists in writing statements. Part of the strategy is to convince prosecutors and the courts that poaching cases are worthy of prosecution and to ensure adequate penalties and compensation.

It may not always be possible to prove a poaching offence but prosecution for ancillary offences may be worth pursuing; driving a vehicle on land or trespass with a firearm, for example.

Poachers are often involved in many other aspects of rural crime. Working with the police to gather intelligence and target poachers will also pay dividends in the reduction of crime in your community.

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## BASC

BASC offers support and advice to all of its members on poaching issues. A £40,000 grant from BASC's Legacy Fund has helped the National Wildlife Crime Unit (NWCU) develop a digital training academy for UK police. This cutting-edge platform has greatly improved police access to wildlife crime training by replacing in-person sessions with flexible, online learning. Officers are able to complete courses at their own pace and revisit materials as needed, overcoming staffing and budget constraints. The academy includes modules on poaching and coursing.

## PAW

The Partnership for Action against Wildlife Crime (PAW) is a multi-agency body comprising representatives of all the organisations actively involved in combatting wildlife crime, including government and police. The Partnership provides a forum for communication and co-operation. It pulls together experts from all fields of wildlife law enforcement, takes an overview of enforcement activity and considers strategic issues of concern to all enforcers. Its main objectives are to promote and support the enforcement of wildlife conservation legislation, particularly through assisting, advising and supporting police wildlife crime officers and their customs counterparts.

## NWCU

The National Wildlife Crime Unit has a role to ensure all aspects of wildlife crime are tackled effectively across the UK, ensuring co-ordination, co-operation and communication between all agencies.

The unit specifically deals with intelligence and its analysis, and provides direct operational support to police forces and partner agencies committed to tackling wildlife crime. As a small unit, it has to prioritise its work. There is a focus on tackling the six UK Wildlife Crime Priorities, which include poaching.

Poaching offences happen regularly all over the country and involve the illegal taking of deer, fish and game, and hare

coursing. Poaching blights our communities not only in rural areas but also in towns and cities.

Illegal activity associated with poaching can distort the community's views about all who engage in legal shooting and fishing, and it is in our interest to work together to address it. To do so, we need to ensure that police officers get to know those involved in legal activities – shooters, fishermen, gamekeepers, shoot managers and stalkers – to ensure that together we continue to target those who engage in illegal activity.

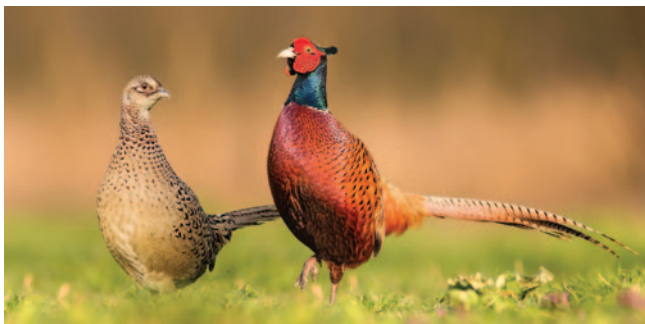
**Contact your local BASC regional office for help and advice.**

**Tell us about:**

- poaching incidents
- court cases
- police assistance
- prevention measures
- compensation claims.

**Help the police to help you by:**

- reporting suspicious vehicles
- reporting all dubious or suspicious activity
- ensuring that an incident number is obtained on each and every occasion.



## DAY POACHING

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Under section 30 of the Game Act 1831 (England & Wales) it is an offence for any person to trespass in the daytime by entering or being upon any land in search or pursuit of game, woodcock, snipe or rabbits.

In Scotland, under the Wildlife and Countryside 1981 as amended by the Wildlife and Natural Environment (Scotland) Act 2011, a person shall be guilty of an offence if they do not have a legal right to kill or take a bird or mammal or the permission from a person who has a right to give permission to kill or take a bird or mammal.

In Northern Ireland, under the Game Preservation Act (Northern Ireland) 1928 (as amended 2011), Article 7A (1) Protection of game and rabbits, it is an offence for anyone to kill, take or destroy game on a Sunday or, in Article 7A (2), to kill, take or destroy any rabbit at any time, by means of a firearm on land where they are not authorised to be.

### Game

Hares, pheasants, partridges, grouse, heath or moor game, black game.

## Daytime

One hour before sunrise to one hour after sunset.

## Trespass

Trespass means a physical entry by a person onto land without permission. Trespass is not of itself a criminal offence, and in most instances it would be regarded as a civil wrong known as a tort (this is not applicable in Scotland).

However there are some offences in which trespass is an essential element, such as trespass in pursuit of game or armed trespass.

## Constructive entries onto land

For daytime trespass, it is now reasonably well established that a poacher can no longer seek the protection of the public highway, footpath or other right of way as a means to poach either there or on adjacent land. The principle that the highway or road should be treated as land in the occupation of the owner or occupier of adjacent land has been maintained over many years and has been extended to include types of constructive entries on land.

The situation in respect of trespass changes where a constructive entry is made by anyone firing a gun into another's land while actually standing on land he owns or has authority to be on, other than the public highway. The act would still be a trespass although no physical entry onto the land is made. But if the act of shooting at game takes place in the daytime and the shot game lands on land where the shooter does not have permission, he would only be liable for trespass if he physically enters the land to pick up the shot game, so a poaching offence is not committed. If such an act is committed at night, it is an offence of unlawfully taking or destroying game or rabbits on any land, even though the land is not entered.

## Search or pursuit

The poacher's intention to take live game, rabbits, etc., must be proved (e.g. admitting the fact, seen to fire at game, slipping

a dog on a rabbit or deer, ferreting in a warren or driving a car deliberately at a pheasant). Seeing the poacher kill or take game removes any doubt as to intention. In relation to trespass with the intention of using a dog to search for or pursue a hare, please see Police, Crime, Sentencing and Courts Act 2022 (PCSCA 2022) section on page 13.

## Arrest

The Game Laws provide for an authorised person to require a person found committing an offence to give their full name and address, and quit the land forthwith. He can only be arrested if the details given are false or vague, if he fails to quit the land or willfully continues on the land, or if he returns to the land.

Authorised person means the occupier or person with the right to kill game (persons authorised by them), gamekeepers or servants.

In Scotland, there is no power of arrest for authorised persons.

BASC strongly advises exercising extreme caution if you are considering taking action under these provisions. It is crucial to prioritise your personal safety and avoid taking unnecessary risks.

Police powers in England & Wales stem from the Police and Criminal Evidence Act 1984 (PACE) as amended by the Serious Organised Crime and Police Act 2005 (SOCPA), in Scotland from the Criminal Procedure (Scotland) Act 1995 and in Northern Ireland from the Police and Criminal Evidence (Northern Ireland) Order 1989 as amended.





## NIGHT POACHING

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This is covered by Section 1 of the Night Poaching Act 1828 and the Night Poaching Act 1844 (England & Wales).

**Section 1 (a)** – It is an offence unlawfully without permission from the landowner or occupier to take or destroy any game or rabbits on any land, open or enclosed (includes public roads, paths and verges), at night. An offence is only committed if game or rabbits are actually taken or destroyed.

**Section 1 (b)** – It is an offence to unlawfully enter or be on any land, with any gun, net, engine (e.g. snare) or other instrument (e.g. lamp, slip lead) for the purpose of taking game (rabbits not included – see Section 1 (a)). To prove the offence there must be evidence of the intention to take game. This may be by admission or, for instance, by witnessing a dog being released on a hare or seeing a gamebird being shot.

In Scotland, as a result of the Wildlife and Natural Environment (Scotland) Act 2011, there is no distinction between day and night poaching.

In Northern Ireland, under the Game Preservation Act (Northern

Ireland) 1928 (as amended 2011), Article 7A (1) Protection of game and rabbits, it is an offence for any person to kill, take or destroy game at night. It is also an offence for any person to take or destroy any rabbit at any time, by means of a firearm on land where that person is not authorised to be.

## Game

Hare, pheasant, partridge, grouse, heath or moor game and black game.

## Night

One hour after sunset to one hour before sunrise.

## Arrest

In England and Wales, under the Night Poaching Act 1828 anyone found committing night poaching may be apprehended by the owner or occupier, their gamekeepers or servants or person assisting them, on the land or adjoining highway, road or path.

BASC strongly advises exercising extreme caution if you are considering taking action under these provisions. It is crucial to prioritise your personal safety and avoid taking unnecessary risks. In Scotland, there is no power of arrest for authorised persons.

Police officers may in specified circumstances use PACE as amended by SOCPA or Criminal Procedure (Scotland) Act 1995.

## Search and seize

In England and Wales, if a poacher is found in possession of recently killed game then a person having rights to game or the occupier, gamekeeper, servant or anyone assisting them, may demand it be handed over and, if refused, it may be taken from him. This is covered by Section 36 of the Game Act (1831) for night and day offences. Police can use PACE as amended by SOCPA or Criminal Procedure (Scotland) Act 1995.

Police officers may enter land to deal with or arrest persons suspected of day or night poaching.

It is correct that under Section 13 of the Game Act, 1831, **specially appointed** gamekeepers can seize dogs, nets and other equipment (instruments) used for killing or taking game. Firearms are not specifically included. Neither are they considered to fall within the meaning of other instruments. It was thought in the case of *Daddle v Hickton* (1868) that the legislation had never intended this section to include a gun because of the serious consequences that may arise from gamekeepers attempting to seize them. There is no power within poaching legislation expressly authorising gamekeepers to seize firearms, under any circumstance.

This must be left to the police.

More importantly, it should be appreciated that, since very few gamekeepers are specially appointed, the vast majority of gamekeepers **do not** even have these limited powers. Such appointments are restricted to Lords of Manors, Lordships and Royalty and have to be registered with local authorities. These provisions for enhancing certain gamekeeper's powers have largely fallen into disuse. So, under Section 36 of the Game Act, 1831, the majority of gamekeepers only have a legal power to seize recently killed game from poachers and nothing else – day or night. Neither do they have a right to search poachers or their belongings.

Gamekeepers who search poachers and seize property other than game are therefore at risk from claims of assault and civil action. They may also jeopardise any subsequent prosecution.

BASC strongly advises exercising extreme caution if you are considering taking action under these provisions. It is crucial to prioritise your personal safety and avoid taking unnecessary risks.

## Game licence

Since 2007, there is no requirement to possess a game licence or game dealer's licence in any part of the UK. However, there are specific rules relating to the sale and supply of game and

venison. In Scotland, you can only sell venison that you have shot to a licensed venison dealer.

## Poaching Prevention Act 1862

This applies to England and Wales only.

Under this Act, game is defined as hare, pheasant, partridge, woodcock, snipe, rabbit, grouse, black or moor game and the eggs of pheasant, partridge, grouse, black or moor game.

Under Section 2 of the Act, anyone suspected of poaching and found with:

- game unlawfully obtained, or
- any gun, part of a gun, cartridges or ammunition, or
- nets, traps, snares or other device used for killing or taking game.

May be committing one or more of the following offences:

- obtaining game unlawfully (if a search on the highway reveals possession of game on the poacher or in the vehicle),  
or
- using a gun, net, etc., for unlawfully killing or taking game, or
- aiding or abetting a poacher to commit either of the above.

Proceedings are by way of summons; however, powers under SOCPA could be considered. Under the Act, a police officer may seize game and equipment but not dogs or ferrets. He may also use his wider powers under PACE as amended by SOCPA.

It is not necessary to prove that game has been taken or to identify the location of the land where the poaching occurred. Even if game is found it is not necessary to show the unlawful means used; however, there must be direct or circumstantial evidence, not mere speculation that the defendant has been poaching.

This is a useful power for police officers who come across people they suspect of having been poaching. For example, if the suspect is walking away from land or in a car a police officer may stop and search any person or vehicle in any highway,

street or public place, under section 2, if the officer has reasonable cause to suspect him of poaching.

## Countryside and Rights of Way Act 2000 (England and Wales)

People who have access to land under the Act have no right to shoot, fish or take game. There are specific restrictions under Schedule 2.

Section 2(1) does not entitle a person to be on any land if, in or on that land, he intentionally or recklessly takes, kills, injures or disturbs any animal, bird or fish, engages in any operations of or connected with hunting, shooting, fishing, trapping, snaring, taking or destroying of animals, birds or fish or has with him any engine, instrument or apparatus used for hunting, shooting, fishing, trapping, snaring, taking or destroying animals, birds or fish.

## Police, Crime, Sentencing and Courts Act 2022

This Act came into force in 2022. It created two new offences of trespass with intent to pursue hares (s.63 PCSCA 2022) and being equipped to search for or pursue hares (s.64 PCSCA 2022). Acts committed prior to 1 August 2022 will not be covered by these provisions.

The offence of trespassing with intent to pursue hares (s.63) is committed where the trespasser intends to use a dog to pursue or search for hares, or to facilitate another doing so or to enable another person to observe that activity.

There is a defence if the defendant can prove (on the balance of probabilities) that there was a reasonable excuse for the trespass.

The offence of being equipped to search or pursue hares (s.64 PCSCA 2022) is committed when a person has with them (other than when in a dwelling) an article with the intention that they or another will use it to commit any offence under s.63 PCSCA 2022. If the prosecution proves that the article in question is

made or adapted for use in committing an offence under s.63 PCSCA 2022, that is evidence that the defendant had it with them with the intention of using it in the commission of such an offence. The maximum sentence for offences under s.63 and s.64 PCSCA 2002 is up to 51 weeks imprisonment and/or a fine.



## DEER POACHING

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### England and Wales

Under Section 1 of the Deer Act 1991 it is an offence without the consent of an authorised person:

- (1) Subject to subsection (3) below, if any person enters any land without the consent of the owner or occupier or other lawful authority in search or pursuit of any deer with the intention of taking, killing or injuring it.
- (2) Subject to subsection (3) , if any person while on any land –
  - (a) intentionally takes, kills or injures, or attempts to take, kill or injure, any deer,
  - (b) searches for or pursues any deer with the intention of taking, killing or injuring it, or
  - (c) removes the carcass of any deer.

## Defences

Subsection (3) provides a defence if a person:

- believed he would have had the owner's or occupier's consent if they had known the circumstances, or
- had other lawful authority.

## Authorised person

An authorised person is the owner or occupier of land, or someone authorised by him, or a person having right to take deer on that land. If an authorised person reasonably suspects someone is, or has been, committing poaching offences he may require that person to give their full name and address and to leave the land immediately. Only police officers have powers of arrest under PACE, as amended by SOCPA, for these offences.

## Search and arrest

A police officer can stop and search a person or vehicle he reasonably suspects is committing or has committed any offence under the Act. They may seize any evidence and any deer, venison, vehicle, animal or weapon. He may enter land to conduct the search. A police officer may in certain circumstances arrest under PACE as amended by SOCPA.

It is possible for a police officer to obtain a search warrant for premises, such as houses, where the power of entry does not apply. This may be granted where there is evidence that the premises might contain sufficient proof of poaching. This means that the police can take action against suspected poachers at any time, not only prior to, during or immediately after the commission of the offence. The ability to obtain such a search warrant comes from an amendment to the Deer Act 1991 introduced by the Wildlife and Countryside Act 1981 through the Natural Environment and Rural Communities Act 2006. It is often necessary to be able to provide such information to investigating officers who themselves may not be fully aware of these legislative amendments.

## Scotland

Under the Deer (Scotland) Act 1996 Section 17, it is an offence

without legal right or permission:

- to take, willfully kill or injure deer on any land, or
- to remove the carcass of any deer from any land.

## Defence

It could be a defence if the deer is taken or killed on a neighbour's land, if it was shot and wounded on land over which the person could shoot.

## Search and arrest

If a police officer suspects an offence has been committed he may search a vehicle and persons in it. He may seize deer or any article which is evidence.

## Northern Ireland

Under the Wildlife (Northern Ireland) Order 1985 Article 22, it is an offence:

- (1) for any person to enter any land without the consent of the owner or occupier or other lawful authority in search or pursuit of any deer with the intention of killing, injuring or taking it.
- (2) if any person, without the consent of the owner or occupier, or other lawful authority, while on any land:
  - intentionally kills, injures or takes any deer
  - searches for or pursues any deer with the intention of killing, injuring or taking it, or
  - removes the carcass of any deer or any part of a carcass.

## Defence

It is a defence if:

- a) he reasonably believed he would have had the owner's or occupier's consent if they had known the circumstances, or
- b) he had other lawful authority.

## Search and arrest

A police officer, with reasonable cause and without a warrant, can stop and search someone they suspect will have evidence of an offence on their person. They may also search or examine



any animal or thing which a person has in their possession if he suspects they may contain evidence of an offence. A police officer may also enter any land other than a dwelling house if he suspects an offence is taking place.

## Additional offences

A deer poacher may have committed further offences such as using illegal methods, unlawful weapons or firearms, contravening firearm certificate conditions, taking during close season, taking at night or driving a motor vehicle on land.

The taking or killing of farm or park deer considered to be captive or tame would amount to theft.

## Hunting Act 2004 (England and Wales only)

The Hunting Act 2004 prohibits the use of dogs to hunt wild mammals except under the following conditions:

### **1. Stalking or flushing undertaken for the purpose of:**

(a) preventing or reducing serious damage which the wild mammal would otherwise cause to:

- (i) livestock,
- (ii) game birds or wild birds (within the meaning of section 27 of the Wildlife and Countryside Act 1981 (c. 69)),
- (iii) food for livestock,
- (iv) crops (including vegetables and fruit), growing timber,
- (v) fisheries,
- (vi) other property, or,
- (vii) the biological diversity of an area (within the meaning of the United Nations Environmental Programme Convention on Biological Diversity of 1992).

(b) obtaining meat to be used for human or animal consumption.

or

(c) participation in a field trial; "field trial" means a competition (other than a hare coursing event within the meaning of section 5) in which dogs:

- (i) flush animals out of cover or retrieve animals that have been shot (or both), and

- (ii) are assessed as to their likely usefulness in connection with shooting.

## **2. Stalking or flushing out takes place on land:**

- (a) which belongs to the person doing the stalking or flushing out, or
- (b) which he has been given permission to use for the purpose by the occupier or, in the case of unoccupied land, by a person to whom it belongs.

## **3. Stalking or flushing out does not involve the use of more than two dogs**

Reasonable steps must be taken to ensure that, as soon as possible after being found or flushed, the wild mammal is shot dead by a competent person and, in particular, each dog used in the stalking or flushing is kept under sufficiently close control to ensure that it does not prevent or obstruct the animal from being shot.

However, an exemption to the Act allows the use of a single dog below ground for the purpose of preventing or reducing serious damage to game birds or wild birds which a person is keeping or preserving for the purpose of their being shot.

Further exemptions include the hunting of rats and rabbits if it takes place on land which belongs to the 'hunter' or on land which he has been given permission to use for the purpose by the occupier or landowner.

Any hunting of mammals with dogs will be illegal if carried out without the permission of either the landowner or, in most circumstances, the occupier. As a result, many poaching offences (involving dogs) will also involve illegal hunting. However, simply being accompanied by a dog while poaching or trespassing does not amount to illegal hunting.

## **Hunting with Dogs (Scotland) Act 2023**

The Hunting with Dogs (Scotland) Act 2023 is a piece of legislation that makes it a criminal offence to hunt a wild

mammal using a dog [s.1(1)(a)]. This is subject to a range of exceptions. All exceptions share common conditions including:

- the use of a maximum of two dogs unless a licence is obtained.
- reasonable steps must be taken to prevent the dogs from forming a pack of more than two.
- any wild mammal flushed must be humanely killed as soon as reasonably possible, either by shooting or by bird of prey.

### **The pest control exception**

It is not an offence if a person is using a dog to search for, stalk, flush from cover a wild mammal with the intention of killing it for preventing serious damage to livestock, woodland or crops; preventing the spread of disease; or protecting human health. It is also permitted to search for and retrieve a wild mammal that has been killed as a result of the above.

### **The below ground exception**

It is permitted to use one dog to search for a fox below ground or to flush a fox from below ground to prevent serious damage to livestock, woodland or crops; for preventing the spread of disease; for protecting human health; or to relieve the suffering of an injured or dependent fox. A dog used for this purpose must be fitted with a device to allow its tracking below ground. Steps must be taken to preserve the dog's welfare below ground, including guarding against its becoming trapped. Any flushed fox must be killed by shooting or by a bird of prey as soon as reasonably possible.

### **The falconry, game shooting or deer stalking exception**

It is not an offence if a person is using a dog above ground to search for, stalk or flush from cover a wild mammal if the intention is to provide quarry for falconry, game shooting or deer stalking. It is also permissible to use a dog to search for and retrieve a wild mammal killed under the above circumstances.

### **The welfare exception**

A dog may be used above ground to search for, stalk or flush from cover a wild mammal which the person has reasonable

grounds for believing is injured, with the intention of treating, capturing or killing it for the purpose of relieving its suffering. It is not permitted deliberately to injure an animal for the purposes of then searching for it to relieve its suffering. Similarly, dead wild mammals can be searched for and retrieved using no more than two dogs.

### **The environmental exception**

A person may use up to two dogs to search for, stalk or flush from cover a wild mammal, with the intention of killing, capturing or observing it as part of a scheme or plan, or to search for and retrieve a wild mammal that has been killed. This exception can only be used for the following purposes: preserving, protecting or restoring a particular species (which may include controlling the number of a species for its welfare) for environmental benefit; preserving, protecting or restoring the diversity of animal or plant life; or eradicating an invasive non-native species of wild mammal from an area.



## **FISH POACHING**

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### **England and Wales**

It is an offence to take or destroy, or attempt to do so, any fish in water, which is private property or in which there is a private right

of fishery. This includes all forms of fish, whether game or coarse, and is covered by Schedule 1 of the Theft Act 1968.

The Environment Agency and Natural Resources Wales are the governing bodies responsible for regulating and enforcing fisheries legislation in England and Wales respectively. Environment Agency fisheries enforcement officers – water bailiffs – have the same powers, liabilities and responsibilities as a police constable when enforcing fisheries legislation. Any suspected illegal fishing activity should be reported directly to the Environment Agency on its emergency line 0800 807 060. Trained staff will then be able to pass on your information to officers on duty in the relevant area. Where the fishing rights are owned or leased by a club or individual, Schedule 1 of the Theft Act 1968 will also apply.

## Arrest

There is no citizen's power of arrest attached to this offence. A police constable can arrest a suspect where an offence against this schedule has been committed. An Environment Agency water bailiff can only make an arrest, if, in committing the offence, the person has also contravened the Salmon and Freshwater Fisheries Act 1975 and/or Salmon Act 1986. Anything the offender had with him for taking or destroying fish when he committed the offence may be seized.

Where the fish are already owned, i.e. in enclosed water where there is no route for the fish to escape, or the fish have already been reduced into possession, they can be regarded as property, rather than wild animals. Then they are dealt with under section 1 of the Theft Act 1968.

## Scotland

It is an offence to fish for salmon or sea trout without legal right or written permission in inland waters and the sea up to one mile from the low water mark. This is covered by the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951.

## Fisheries Act (Northern Ireland) 1966

This legislation relates to various issues around fisheries

conservation and protection and allows the making of byelaws for the protection of fish stocks.

## Additional offences

### Theft

Any fish taken unlawfully from an enclosed water is subject to the Theft Act 1968 (England and Wales) or Common Law in Scotland. It is also an offence to handle any salmon, sea trout, eel, freshwater fish, smelt, lamprey and any other fish specified in the Salmon and Freshwater Fisheries Act 1975 sec 40 where, under the circumstances, it would be reasonable to assume an offence had been committed. This is covered by the Salmon Act 1986 (England, Wales and Scotland).

Fishing in the close season, without an authorisation and/or rod licence, and fishing using illegal methods, e.g. set line or poison, are offences under the Salmon and Freshwater Fisheries Act 1975 (England and Wales). Several similar Acts apply in Scotland.



## OFFENCES ASSOCIATED WITH POACHING

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### Theft

Theft may be considered where the bird, animal or fish is taken unlawfully from an enclosed environment, e.g. fish in a breeding

tank or enclosed water, birds and eggs from a breeding pen, or deer from a park or farm. This also applies to farm implements and crops. This information needs to be made available to the police at the time of the incident as it can extend their powers to deal with the situation.

## Firearms legislation

The legislation that relates to firearms offences differs in England, Wales, Scotland and Northern Ireland but the offences most likely to be committed by a poacher include:

- trespass with a firearm
- use of unlicensed firearm
- use of firearm contrary to certificate conditions
- illegal possession of firearms by young person
- having a loaded firearm in a public place.

## Crossbows

Crossbows are not classed as firearms but it is illegal to kill any bird or animal with a bow or crossbow (Wildlife and Countryside Act 1981).

## Wildlife and Countryside Act 1981

Under the Wildlife and Countryside Act 1981 it is prohibited to use the following to kill or take wild birds:

Springe, trap, gin, snare, hook and line, any electrical device for killing, stunning or frightening or any poisonous, poisoned or stupefying substance, nets, baited board or bird-lime.

It is also an offence to kill or take any wild bird by using: a bow or crossbow; explosives other than ammunition for a firearm; any automatic or semi-automatic weapon; any shotgun with a barrel having an internal diameter at the muzzle of more than one and three-quarter inches; any device for illuminating a target or sighting device for night shooting; artificial lighting, mirrors or dazzling devices; gas or smoke; chemical wetting agents; the use of sound recordings to decoy wild birds; the use of a decoy bird tethered or otherwise secured or maimed or injured; any mechanically propelled vehicle in the immediate pursuit of a wild bird.\*

The Wildlife (Northern Ireland) Order 1985 also prohibits:

- any missile which is not discharged from a firearm, including in particular any arrow or spear
- any metal bar, axe, hatchet, cudgel, club, hammer or similar instrument.

\*N.B. Certain prohibited methods (listed) may be authorised by a licence issued by the relevant Government agency.

## Driving a motor vehicle on land

Under Section 34 of the Road Traffic Act 1988 it is an offence to drive, without lawful authority, a mechanically propelled vehicle on:

- common land
- moorland
- other land of any description not being part of a road
- public footpath
- bridleway, or
- restricted byway, except in emergencies.

It is not an offence to drive a mechanically propelled vehicle on any land within 15 yards of a road (being a road on which a motor vehicle may be lawfully driven) for the purpose of parking the vehicle on that land.

It is often easier and more productive to prosecute for motoring offences. A police check of the poacher's vehicle and documents is always recommended.

The police have some very useful powers for dealing with those who persistently commit such an offence. Where nuisance can be shown, offenders may be issued with what is known as a Section 59 warning (Police Reform Act 2002), after which further instances might result in the vehicle being seized without the involvement of the courts.

## Criminal damage

Criminal damage may be done to buildings, fences, hedges, crops, captive or domestic birds or animals; examples include



poisoning a fish tank, injuring a dog, setting fire to a shed or haystack. In Scotland this is referred to as vandalism or malicious mischief.

## Assault

This covers causing any injury. There are, however, different categories of assault (common, actual bodily harm, or grievous bodily harm) which are defined according to the injuries sustained.

## Threatening behaviour

This is covered by the England and Wales Public Order Act 1986, while in Scotland it would be a Common Law crime. Under Section 4 of the above Act an offence is committed if a person uses, towards another person, threatening, abusive or insulting words or behaviour:

- (a) with intent to cause that person to believe immediate violence will be used against him or another, or
- (b) with intent to provoke the immediate use of violence by the other person or another, or
- (c) whereby that person is likely to believe that such violence will be used, or
- (d) whereby it is likely that such violence will be provoked.

Under Section 5 an offence is committed if a person uses threatening, abusive or insulting words or behaviour, or uses disorderly behaviour, within the hearing or sight of a person likely to cause harassment, alarm or distress.

Sections 4 and 5 cater for confrontational situations which can be committed in public or private places but not inside a house. They apply equally to gamekeeper and poacher alike. It is necessary to prove the intent to create a fear of violence, harassment, etc., which will rely on accurately recording the words and actions used by each individual. Only the police have powers of arrest.

## Witness intimidation

Threats made towards gamekeepers, their family or property

are covered by Section 51 of the Criminal Justice and Public Order Act 1994 (England and Wales) and Common Law in Scotland. The offence can be committed by any person who intimidates a person assisting in an investigation, a witness or juror. Threats need not be made in the presence of the person and may be financial as well as physical.

The Protection from Harassment Act 1997 (the 'anti-stalking' Act) contains offences of harassment and causing fear of violence.

## Offensive weapons

It is an offence without reasonable excuse to have an offensive weapon in a public place under Section 1 of the Prevention of Crime Act 1953 and the Criminal Law (Consolidation) (Scotland) Act 1955. An offensive weapon is something made or adapted to cause injury, e.g. a baseball bat with a nail in it, knuckle-duster or cosh. It can also be anything which is used for the purpose of being an offensive weapon, e.g. walking stick or hammer. Only the police have powers of arrest.

## Knives

Under the Criminal Justice Act 1988 & Violent Crime Reduction Act 2006, it is now illegal to have any sharply pointed or bladed instrument in your possession in a public place without good reason or lawful authority. A public place is anywhere that the public has, or is permitted to have access to, which includes footpaths, roads and highways, shops, and pubs for example.

A good reason for carrying a knife may be shown by occupation, for example a farmer, estate manager, recreational stalker, game shooter or angler. If you leave a knife in your car or go into a shop with a knife in your pocket when you are returning from or going to a place where you farm, fish or shoot, etc., then this would constitute good reason even though you do not have an immediate need to use the knife. Leaving a knife in the car or in your pocket for when you next go shooting, or forgetting that it is there, is illegal.

There is an exemption in law for folding pocket knives. These

must have cutting edges of less than three inches, do not lock and must be foldable at all times.

Since September 2024 'zombie-style' knives and machetes have been added to the prohibited weapons list under the Criminal Justice Act 1988. A zombie-style knife or machete is defined as a bladed article with the following elements:

1. A plain cutting edge
2. A sharp pointed end; and
3. A blade of over eight inches in length (measured from the tip to the top of the handle in a straight line).

In addition to this basic specification, it must also have one or more of the following features:

- a serrated cutting edge (other than one no longer than two inches next to the handle)
- more than one hole (of any shape) in the blade
- spikes
- more than two sharp points in the blade.

(A sharp point is defined as having an angle between the edges which creates the point of less than 90 degrees. In the case of a curved edge the angle will be measured by reference to the tangent of the curve).

## Deter or prosecute

You must decide whether you are prepared to stop poachers in a bid to arrest and prosecute or to deter them by driving them off your land. BASC strongly advises exercising extreme caution if you are considering taking any such action. It is crucial to prioritise your personal safety and avoid taking unnecessary risks.

For a prosecution to have a good chance of succeeding it is often better to observe quietly and gather the evidence.

Trying to prove a poacher's intentions while in pursuit is more difficult and provides numerous excuses, e.g.: "I was only exercising my dog and it ran after a deer".

To let the pursuit continue, however, may cause more damage by disturbing livestock, partridge or pheasant and ruin shooting for the next day. In these circumstances it may be better to show a presence and get them off the land.

## Observation and identification

Recording an incident from start to finish with written notes, photographs, dashcam or other video, or voice recording, is always more useful than your recollections. Always have a suitable device or notebook and pen available to record details, at the time or as soon as possible after the event, e.g. on return to your vehicle or when the police arrive. Tell the police about the notes, photographs, video or recordings to validate their authenticity.

It is vital that you record what each individual did and said. Identify each one by their personal features and clothing, e.g. the one in the wax jacket and the one in the camo trousers. Record details such as: who was driving; who had the dog, lamp or gun; what was said and by whom. Some offenders will also change their clothes to create confusion. Make a note of weather conditions and your ability to see what was happening, i.e. "the poachers were hunting in the middle of a field where my view was not obstructed" or "although the poachers were operating within a wooded area, I was able to observe their activity from the end of a ride".

It is sometimes easier to get a result by prosecuting poachers for motoring offences, especially if they have been drinking. Try to identify the driver and the vehicle and road or location where driven. Identify the vehicle by its registration, colour, model, accessories, damage or repairs.

## Continuity

Continuity is vital, particularly where you are following poachers across fields in the dark. Normally this would require an unbroken chain of events, e.g. you see the lamper in the fields at night. By the time you get to the field the lamp is off, you lose sight of the lamper but you then come across a man with a dog

and a lamp on a footpath next to the field. You may not be able to prove this is the same person who was lamping in your fields unless you can state you watched the person continuously from the field to the point where you met on the footpath.

## Using the caution (England and Wales)

Keepers may question possible poachers to establish:

- identity
- ownership of a vehicle, equipment, a dog, etc.
- rights to be on land, take deer, fish, etc.

Further questioning is better left to the police as the evidence gained may only be accepted by a court if the caution is given, i.e. "You do not have to say anything but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence." A caution must also be given if a keeper makes an arrest.

## Arrests

Arrests are obviously a matter of great significance and consequence. Anybody who decides to effect an arrest must be clear as to the power being exercised and be prepared to justify their actions.

There are clear health and safety considerations to be taken into account and a risk assessment should be undertaken. Such an assessment will involve consideration of at least:

- the use of force (bear in mind that gamekeepers are not authorised to carry anything that could be considered to be an offensive weapon)
- personal safety
- security and safety of any prisoners
- contact with the police
- lone working.

In addition, anybody who carries out an arrest must understand the power that is being used. For example, a person who commits offences under the Night Poaching Act may be

arrested, but you can only rely on the power provided by the Game Act 1831 if offenders fail to provide names and addresses or if they return to the land.

BASC strongly advises exercising extreme caution if you are considering taking action under these provisions. It is crucial to prioritise your personal safety and avoid taking unnecessary risks.

## Citizen's arrest

The issue of citizen's arrest is problematic. The law (PACE) allows anybody to effect the arrest of a person who has committed an indictable offence. Indictable means an offence that can be tried by magistrates or may be referred upwards to Crown Court, for example theft or most assaults.

**No poaching offences are indictable; they are only dealt with by magistrates, and as such the citizen's power of arrest is not available.**

While some offences associated with poaching may allow the use of citizen's arrest, BASC strongly advises exercising extreme caution if you are considering taking action under these provisions. It is crucial to prioritise your personal safety and avoid taking unnecessary risks.

In addition to the health and safety concerns, consideration needs to be given to our litigious society. If the incorrect power of arrest is used, if an arrest is carried out with no charges being laid, or if the accused is found not guilty, there is the potential for those involved in the arrest to face civil litigation (being sued).

Those who are expected to make arrests as part of their employment should discuss the issues raised in this paragraph with their employers.

## Your statement

Any statement you are required to give will need to contain not only the evidence but also justification for spending court time

and money on what may appear to some to be a trivial matter. Your statement can influence the decision to prosecute and the penalties. A poaching case must pass two tests before it can get to court:

1. There must be sufficient evidence to secure a prosecution.
2. It must also be considered to be in the public interest to prosecute.

Decisions as to which cases proceed to a court hearing are not made by the police. Where the police feel that there is sufficient evidence to bring a case, they refer papers to the Crown Prosecution Service (CPS) in England and Wales, Crown Office and Procurator Fiscal Service (COPFS) in Scotland and the Public Prosecution Service in Northern Ireland. It is for the CPS or equivalent to make the decision as to whether a case is prosecuted.

Many poaching cases fail if the details which justify prosecution and subsequent penalties are not included in the statement. Do not expect the police, prosecutors and courts to have knowledge of how shooting and fishing are financed and the effects of poaching on them.

The following is the basis of your statement. It includes options to cater for different circumstances and offences. Once you have created your own standard statement you can use it time and again.

"I am the (gamekeeper, river bailiff, landowner, tenant, farmer, shooting tenant, or other) in respect of (land/water), situated at (detail the area involved)"

Outline the particulars of your role, and the circumstances and effects of the incident including:

- Your employer (e.g. estate, fishing club, shooting syndicate).
- What you provide (e.g. pheasant/partridge shooting, trout or coarse fishery).
- Whom you provide it for (e.g. private owner, syndicate or public).
- How you do it (e.g. rearing and/or buying in of birds/fish).

- How you look after them (e.g. hatching, rearing, feeding, releasing, protection from poachers and predators, night patrols, holding birds on land, etc.).
- If the shoot/fishery is partly or wholly commercial, explain let days or fishing permits.
- How costs are calculated (e.g. what is charged per bird/fish).
- What is the effect of poaching (e.g. you are unable to provide the level of sport expected, drives ruined by disturbance at night, loss of revenue, income tax and VAT. Effect on the local economy through equipment purchases, accommodation, food, threat to employment).
- Were animals injured and left to die?
- Was livestock worried or disturbed?
- Does poaching affect proper deer management through indiscriminate killing?
- State public health risks from poached venison, game and fish.
- Were the poacher's acts wilful (e.g. was it a poaching gang from the city out to clear a wood, or a couple of kids with a bent pin dangling a line? Was there any expression of regret?)?
- Give details of any injuries (e.g. were there any threats/intimidation at the time or for the future? Have you experienced any from these or other poachers in the past?).
- State why poaching is a problem in your locality.
- Is a failure to prosecute taken as a sign of weakness leaving gamekeepers, their families and property further exposed to violence, intimidation and financial loss?

## Compensation

Claim compensation at the commercial value; e.g. the price charged by the shoot per bird or the cost to the club; e.g. total costs divided by number of fish stocked. It may be more difficult to apply a value to lamping hare and rabbit but you should explain the potential for spoilt drives by disturbing partridge or pheasant. Include disturbance to livestock, damage to fences, gates left open etc. In the case of brown hare, however, it is worth making the point that they are a species of conservation concern, and that poaching can have a greater environmental impact.



“I ask that compensation of £ per bird/fish be awarded in accordance with Haslam v CPS Derby Crown Court, 1991, this being the value of the bird/fish to my employer/club” (The court awarded £10 per pheasant in 1991, it would be considerably more now).

## Limitation of proceedings

In criminal law most poaching offences are subject to what is known as the Statute of Limitations. This means that prosecutions have to be commenced within certain time limits; if the date for commencement passes, a prosecution cannot be pursued. For many poaching offences the time limit is only three months from the date of the offence. Other offences have longer time limits but six months from the date of the offence is the most common.

Some investigators will be unaware of the time limits, in particular the short three-month limit for poaching offences. You should ensure that such matters are raised at the earliest opportunity and the matter pressed as the time limit approaches.

## Further action checklist

- Immediately after each incident, contact the local police and the CPS or equivalent expressing your concerns;
- Emphasise that you wish to see a prosecution;
- Make a request for compensation;
- If injured, ask for a criminal injuries compensation form – even if the poacher was not arrested or identified;
- If possible, attend court and remind the prosecutor before the case starts – they sometimes forget or have not seen the claim on the file;
- If you are not happy with the actions of the police or the prosecutor, write to the Chief Constable, Police and Crime Commissioner in England and Wales or head of the prosecution authority;
- Create some media interest – speak to the BASC press office on 01244 573 052.

## Gamebird and waterfowl OPEN seasons (dates inclusive)

Species	England and Wales	Scotland	Northern Ireland	Isle of Man
<b>Pheasant</b>	Oct 1 – Feb 1	Oct 1 – Feb 1	Oct 1 – Jan 31	Oct 1 – Jan 31
<b>Grey partridge</b>	Sep 1 – Feb 1	Sep 1 – Feb 1	Sep 1 – Jan 31	Protected (ban in force)
<b>Red-legged partridge</b>	Sep 1 – Feb 1	Sep 1 – Feb 1	Sep 1 – Jan 31	Sep 13 – Jan 31
<b>Red grouse</b>	Aug 12 – Dec 10	Aug 12 – Dec 10	Aug 12 – Nov 30	Aug 25 – Oct 31*
<b>Black grouse</b>	Aug 20 – Dec 10 (Somerset, Devon and New Forest: Sep 1 – Dec 10)	Aug 20 – Dec 10	--	--
<b>Ptarmigan</b>	--	Aug 12 – Dec 10	--	--
<b>Duck &amp; goose</b> inland	Sep 1 – Jan 31	Sep 1 – Jan 31	Sep 1 – Jan 31	Sep 1 – Jan 31 – Ducks July 1 – Mar 31 – Geese**
<b>Duck &amp; goose</b> below HOST (see next page)	Sep 1 – Feb 20	Sep 1 – Feb 20	Sep 1 – Jan 31	Sep 1 – Jan 31 – Ducks Jul 1 – Mar 31 – Geese**
<b>Common snipe</b>	Aug 12 – Jan 31	Aug 12 – Jan 31	Sep 1 – Jan 31	Sep 1 – Jan 31
<b>Jack snipe</b>	Protected	Protected	Sep 1 – Jan 31	Protected
<b>Woodcock</b>	Oct 1 – Jan 31	Sep 1 – Jan 31	Oct 1 – Jan 31	Oct 1 – Jan 31
<b>Golden plover</b>	Sep 1 – Jan 31	Sep 1 – Jan 31	Sep 1 – Jan 31	Protected
<b>Coot/moorhen</b>	Sep 1 – Jan 31	Sep 1 – Jan 31	Protected	Protected

## HOST – high water mark of ordinary spring tides

**England, Scotland and Wales:** Any area below high-water mark of ordinary spring tides.

**Isle of Man:** \*Currently a voluntary ban on shooting red grouse is in place. \*\*Geese can only be shot under general licence under the Wildlife Act 1990. See the Department of Food and Agriculture (Defa) website for terms and conditions of general licences.

## Ground game OPEN seasons (dates inclusive)

Species	England and Wales	Scotland	Northern Ireland	Isle of Man
<b>Brown hare</b>	No close season however certain restrictions can apply, see overleaf	Open season Oct 1 – Jan 31	Aug 12 – Jan 31	Oct 1 – Jan 31 (brown or common hare)
<b>Mountain hare</b>	No close season but moorland and unenclosed land is subject to a close season, see overleaf	Protected	N/A	N/A
<b>Rabbit</b>	No close season however certain restrictions can apply, see overleaf	No close season however certain restrictions can apply, see overleaf	Rabbit is classed as a pest and therefore not subject to a close season	No close season

In England and Wales, under the Ground Game Act 1880, occupiers of land have an inalienable right to kill and take ground game, concurrent with any other person holding such a right. Occupiers or a person authorised by them, acting under the authority of this legislation may only kill or take ground game on moorland (or unenclosed land)\* between 1 September and 31 March inclusive. Further, under Section 1(3) of the 1880 Act and Section 2 of the Ground Game Amendment Act 1906, occupiers or a person authorised by them, may only use firearms for such purposes between 11 December and 31 March.

In Scotland, the occupier of the land or persons authorised by them may kill rabbit throughout the year on moorland and unenclosed land (not being arable) by all legal means but only by means of firearms during the period from 1 July to 31 March inclusive (Section 1 (3) of the Ground Game Act 1880 as modified by the Agriculture (Scotland) Act 1948). Hares are subject to a close season (Wildlife and Natural Environment (Scotland) Act 2011) (see previous page).

\*Moorland and unenclosed land does not include arable land or detached portions of land less than 25 acres which adjoins arable land.



## Statutory OPEN seasons for deer (dates inclusive)

From 21 October 2023, the closed season for the males of all deer species in Scotland was removed. This means that all male deer in Scotland can be taken all year round.

Species and Sex	England and Wales	Scotland	Northern Ireland
<b>RED</b>			
<b>Stags</b>	Aug 1 – April 30	Year-round	Aug 1 – April 30
<b>Hinds</b>	Nov 1 – Mar 31	Oct 21 – Feb 15	Nov 1 – Mar 31
<b>SIKA</b>			
<b>Stags</b>	Aug 1 – April 30	Year-round	Aug 1 – April 30
<b>Hinds</b>	Nov 1 – Mar 31	Oct 21 – Feb 15	Nov 1 – Mar 31
<b>RED/SIKA HYBRIDS</b>			
<b>Stags</b>	Aug 1 – April 30	Year-round	Aug 1 – April 30
<b>Hinds</b>	Nov 1 – Mar 31	Oct 21 – Feb 15	Nov 1 – Mar 31
<b>FALLOW</b>			
<b>Bucks</b>	Aug 1 – April 30	Year-round	Aug 1 – April 30
<b>Does</b>	Nov 1 – Mar 31	Oct 21 – Feb 15	Nov 1 – Mar 31
<b>ROE</b>			
<b>Bucks</b>	April 1 – Oct 31	Year-round	– –
<b>Does</b>	Nov 1 – Mar 31	Oct 21 – Mar 31	– –
<b>CHINESE WATER DEER</b>			
<b>Bucks</b>	Nov 1 – Mar 31	– –	– –
<b>Does</b>	Nov 1 – Mar 31	– –	– –
<b>MUNTJAC</b>			
There is no statutory closed season for this species. It is recommended that when culling female muntjac, immature or heavily pregnant does are selected to avoid leaving dependent young.			

**If you see something which you consider requires urgent police attention, please call 999.**

**Please use the phonetic alphabet to pass vehicle numbers by telephone or radio.**

**A** ALPHA

**B** BRAVO

**C** CHARLIE

**D** DELTA

**E** ECHO

**F** FOXTROT

**G** GOLF

**H** HOTEL

**I** INDIA

**J** JULIET

**K** KILO

**L** LIMA

**M** MIKE

**N** NOVEMBER

**O** OSCAR

**P** PAPA

**Q** QUEBEC

**R** ROMEO

**S** SIERRA

**T** TANGO

**U** UNIFORM

**V** VICTOR

**W** WHISKEY

**X** X-RAY

**Y** YANKEE

**Z** ZULU



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# Poaching – A Rural Crime

## **BASC Campaign Against Poaching**

### **Tell us about your**

- Poaching incidents •
  - Court cases •
  - Police assistance •
- Prevention measures •
- Compensation claims •

**Phone us NOW on  
01244 573 000**

- Always help the police to help you •
- Report any suspicious vehicles •
- Report all dubious activity •



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