

Weapons law in the Federal Republic of Germany

Contents:

1. Introduction
2. Sources of law
3. The most important amendments
4. Types of authorization
5. Transfer of weapons and ammunition
6. Travelling with weapons to, through or out of Germany
7. Export authorizations from the Federal Office of Economics and Export Control
8. The obligation to declare weapons at borders when transferring or travelling with them from third countries
9. Carrying arms in Germany
10. Firing weapons in Germany
11. General exceptions to licence requirements
12. German weapon authorities

1. Introduction

The Weapons Act (Waffengesetz) governs the handling of weapons and ammunition in the Federal Republic of Germany, having due regard to issues of law and order.

The amendments that came into effect on 1 April 2008 are primarily intended to transpose into national law the provisions of the UN Firearms Protocol, which Germany as a signatory state is obliged to implement, as well as the provisions of the politically binding UN Instrument on the identification and tracing of small arms and light weapons of 8 December 2005. The opportunity was also taken to eliminate various inconsistencies that had emerged in connection with the interpretation and enforcement of the Act.

The amendments to the Act on the Proof Testing of Arms and Ammunition (Beschussgesetz) and the Ordinance on the Proof Testing of Arms and Ammunition (Beschussverordnung) round off the necessary changes.

2. Sources of law

1. The Act to Amend the Weapons Act and other Provisions (Gesetz zur Änderung des Waffengesetzes und weiterer Vorschriften) of 26 March 2008,¹ parts of which came into effect on 1 April 2008

¹ Federal Law Gazette, part I, p. 426

2. The Weapons Act (Waffengesetz – WaffG), as amended by the Act to Reform German Weapons Law (Gesetz zur Neuregelung des Waffenrechts – WaffRNeuRegG) of 11 October 2002,² which came into effect on 1 April 2003
3. The General Ordinance on the Weapons Act (Allgemeine Waffengesetz-Verordnung – AWaffV) of 27 October 2003,³ which came into effect on 1 December 2003

At present, weapon law fees are set at a standard level nationwide under the Fourth Ordinance on the Weapons Act (Weapons Act Cost Ordinance – Kostenverordnung zum Waffengesetz), as amended on 20 April 1990.⁴ A Cost Ordinance is currently being prepared by the Federal Ministry of the Interior for the federal weapons-law enforcement authorities (Federal Criminal Police Office and Federal Office of Administration). Following the first phase of the federalism reform, the Länder (federal states) are now also permitted to issue their own cost ordinances.

3. The most important amendments

Most of the amendments concern the situation in Germany and do not affect issues of cross-border relevance. The most important amendments that should nevertheless be mentioned are as follows:

- the ban on carrying fake weapons (replica firearms), striking, slashing and thrusting weapons and certain knives in public
- the additional marking requirements for (live) firearms
- the ban on electro-impulse devices that can be used from a distance ("air tasers")
- new restrictions on the "heirs' privilege" (inherited weapons may only be kept if rendered unusable with an officially approved blocking system).

The further provisions on licences for transferring or travelling with firearms and ammunition to non-EU countries (extension of the "principle of double permission" from the states of origin and destination that currently applies to EU countries only) will not come into effect until 1 January 2010, and are therefore not yet of relevance.

4. Types of authorization

The Act distinguishes between (a) the acquisition and possession of weapons and ammunition, (b) carrying arms and (c) firing arms. Specific requirements must be met for each of these and separate authorizations obtained.

4.1. To acquire and possess a weapon one must obtain a licence for the possession of firearms (Waffenbesitzkarte) or ensure that a new weapon is added to those listed in an existing licence. This licence allows you to carry the weapon within your own home, business premises or fenced-in

² Federal Law Gazette 2002, part I, p. 3970, 4592; 2003, part I, p. 1957

³ Federal Law Gazette 2003, part I, p. 2123

⁴ Federal Law Gazette, part I, p. 780

property.

- 4.2. Authorization to acquire and possess ammunition for a given weapon is as a rule granted by being noted in the Waffenbesitzkarte. Only in exceptional cases (e.g. for ammunition collectors and experts) is a separate ammunition acquisition licence (Munitionserwerbsschein) for a specific type of ammunition required.
- 4.3. If you want to carry a legally acquired and held weapon outside your home, business premises or other fenced-in property, you additionally need a firearms certificate (Waffenschein). Carrying arms at public events is prohibited. For exceptions see section 9 below.
- 4.4. Arms used as warning devices or alarms or to fire non-lethal incapacitants or used for signalling can be acquired and possessed without authorization, but since 1 April 2003 a "minor firearms certificate" (Kleiner Waffenschein) has been required to carry such arms in public. This certificate is issued to persons who are at least 18 years old and have demonstrated their integrity and personal fitness. In contrast, it is still possible to acquire, possess and carry licensed spray gas devices without any authorization. Indeed, the new Weapons Act now permits persons from the age of 14 to have such weapons.
- 4.5. A further licence (Erlaubnisschein) is required to fire a firearm. Please refer to section 10 below.

Special authorizations are often required to transfer weapons and ammunition to, through or out of Germany and to travel with weapons to, through or out of Germany. Details are to be found in sections 5 and 6 below.

5. Transfer of weapons and ammunition

For the purposes of weapons law, "transferring" weapons or ammunition is defined as moving them from one country to another where they are destined to remain in the long term or change ownership. Various conditions have to be fulfilled, depending on whether the weapon or ammunition is being transferred from an EU or non-EU state, whether it is being transferred to, from or merely through Germany and whether it is being transferred to an EU or non-EU state. The conditions are set out below:

5.1. From an EU member state

5.1.1. To Germany (section 29 (1) and (2) of the Weapons Act)

A German transfer licence (Verbringenserlaubnis) is required. The application for this licence must include proof that one has obtained a licence from the EU state of origin to transfer the weapon or ammunition out of that state (required in all cases). The German licence will then simply approve the state of origin's licence. One must also prove that the recipient in Germany is entitled to acquire and possess the item(s) being transferred. The person effecting the transfer – if not the recipient himself – must have a German licence for the possession of the transferred weapon or ammunition or be statutorily

exempt (section 12 (1) (2) of the Weapons Act – e.g. as a commercial deliverer of weapons and ammunition). See below for the "safe transport" requirement.

5.1.2. Through Germany to a non-EU country (section 30 (1), 2nd sentence of the Weapons Act) and

5.1.3. Through Germany to an EU member state (section 30 (1) 2nd sentence of the Weapons Act)

As in 5.1.1 above, except that there is no need to prove that a recipient in Germany is entitled to acquire and possess the item(s) being transferred. When item(s) are being transferred to a non-EU country, any further requirements found in the laws and regulations of that third country must be fulfilled.

From a non-EU country

5.2.1. Through Germany to another non-EU country (section 30 (1) first sentence of the Weapons Act)

A German transfer licence (Verbringenserlaubnis) is required. The application for this licence must include proof that the person effecting the transfer has a German licence for possession. See below for the "safe transport" requirement. The laws and regulations of the third states must be observed.

5.2.2. Through Germany to an EU member state (section 30 (2) of the Weapons Act)

As in 5.2.1 above, with the additional requirement that the German transfer licence may only be issued upon presentation of the destination state's licence allowing the transfer of the weapon/ammunition into its territory. If the destination state does not issue such licences, official confirmation of this must be provided. The laws and regulations of the third state must be observed.

5.2.3. To Germany (section 29 (1) of the Weapons Act)

As in 5.2.1 above, with the additional requirement that one must also prove that the final recipient in Germany is entitled to acquire and possess the item(s) being transferred, should the transfer be effected by someone other than this recipient. The laws and regulations of the third state must be observed.

5.2. From Germany

5.3.1. To a non-EU country (section 31 (1) of the Weapons Act)

No German transfer licence required. The person effecting the transfer must have a German licence for possession or be statutorily exempt (section 12 (1) (2) of the Weapons Act – e.g. as a commercial deliverer of weapons and ammunition). See below for the "safe transport" requirement. The laws and regulations of the third state must be observed.

5.3.2. To an EU member state (section 31 (1) of the Weapons Act)

A German transfer licence (Verbringenserlaubnis) is required. The

application for this licence must include proof that the person effecting the transfer is entitled to acquire and possess the item(s) being transferred, i.e. has a German licence for possession or is statutorily exempt (see 5.3.1 above) and that the safe transport of the item(s) is ensured (see below). The German transfer licence may only be issued upon presentation of the destination state's licence allowing the transfer of the weapon/ammunition into its territory. If the destination state does not issue such licences, official confirmation of this must be provided.

German transfer licences are only issued for specific, individual transfers – no blanket licences can be granted.

It should be noted that a transfer is effected through Germany when changing planes at a German airport if the weapon/ammunition cannot be checked through to the destination airport. In cases where a transfer licence is required (see 5.1 and 5.2 above), this must be applied for from the weapon authority responsible for the airport in question. The authority responsible for Frankfurt/Main airport is:

Stadt Frankfurt am Main

Ordnungsamt 32.21.1

Postfach 11 17 31

60052 Frankfurt am Main

Telephone: +49 (0)69 212 42422 / 44689 / 42416 / 42405

Fax: +49 (0)69 212 43365

E-mail: bjg-waffg@stadt-frankfurt.de

Internet: www.ordnungsamt.frankfurt.de

The licence should be applied for using the application form for transfer licences. A full itinerary and flight details must be provided.

"Safe transport" means the transport of weapons or ammunition in a securely locked container, ensuring that they are not readily accessible or ready to fire. If the weapon is readily accessible during the journey (e.g. in the glove compartment of a car) or is ready to fire, then the weapon is not being merely transferred – it is being carried. Carrying firearms requires an additional licence. Carrying them without such a licence is a criminal offence.

The requirements for obtaining licences to carry and fire weapons, e.g. those transferred to Germany from abroad for one's own private use, are set out in sections 9 and 10 below.

Supplementary note on purchasing weapons or ammunition in Germany

In line with section 5.3 above, persons resident abroad who want to buy a weapon or ammunition in Germany must have a German licence for possession (Waffenbesitzkarte) in order to take possession of it in Germany and personally effect its transfer to their home country. Such a licence may in principle be issued to non-residents for the sole purpose of transferring a weapon from Germany to a third country, but it is no doubt simpler to commission a dealer in Germany to send the weapon or ammunition directly to the home address of the purchaser in the third country. The German transfer licence required for deliveries to other EU countries would then have to be applied for by the dealer.

The laws and regulations of the country into which the weapon is being transferred must be observed in all cases.

6. Travelling with weapons to, through or out of Germany

For the purposes of weapons law, travelling with weapons is defined as temporarily bringing a weapon or ammunition from one state into another without any change of ownership, after which time the weapon or ammunition will be taken back to the country of origin. As seen above for the transfer of weapons and ammunition, there are various possible permutations for such travel. Different conditions have to be fulfilled depending on whether a person is travelling with the weapon or ammunition from an EU or non-EU state, whether it is being taken from, to or merely through Germany and, if it is being taken out of or through Germany, whether it is being taken to an EU or non-EU state. The requirements for these various permutations are set out below:

6.1. From an EU member state

6.1.1. To Germany, or

6.1.2. Through Germany to a non-EU country, or

6.1.3. Through Germany to an EU member state

A German travel licence (Mitnahmeerlaubnis) is required. The European firearms pass issued by the state of origin must be presented when applying for this licence. If travelling through Germany to a non-EU country, check that country's laws and regulations for further requirements.

6.2. From a non-EU country

6.2.1. To Germany, or

6.2.2. Through Germany to another non-EU country

A German travel licence (Mitnahmeerlaubnis) is required. The laws and regulations of the third state(s) must be observed.

6.2.3. Through Germany to an EU member state

A German travel licence (Mitnahmeerlaubnis) is required. This may only be granted upon presentation of the destination state's licence, should it require one, allowing the weapon or ammunition to be taken into its territory. If the destination state does not issue such licences, official confirmation of this must be provided. The laws and regulations of the third state must be observed.

6.3.From Germany

6.3.1. To an EU member state

If the applicant can prove that he holds a licence to acquire and possess the weapon or ammunition in question, the German weapon authorities will issue a European firearms pass upon request. The laws and regulations of the state through or to which the weapon or ammunition is travelling must be observed.

6.3.2. To a non-EU country

No licence or European firearms pass required. The laws and regulations of the third state must be observed.

6.4.Exceptions for marksmen, hunters and traditional riflemen

6.4.1. From an EU member state

Marksmen, hunters and members of traditional rifle associations from an EU member state may travel to or through Germany with the following weapons without obtaining a German travel licence, provided they hold a European firearms pass issued by their state of origin, the weapon/ammunition is registered in that state and they can prove the reason for the journey, e.g. by presenting an invitation:

- hunters: up to three long firearms and matching ammunition for hunting,
- marksmen: up to six sports firearms and matching ammunition for target shooting,
- riflemen: up to three single-shot or repeating long firearms and matching ammunition for participating in riflemen's meetings.

If firearms other than those licensed for the named purposes are to be brought into the country, a German travel licence must be applied for.

6.4.2. For marksmen, hunters and traditional riflemen from non-EU countries

Marksmen, hunters and traditional riflemen from non-EU countries must obtain a German travel licence to bring the weapons listed under 6.4.1 above into the country. However, the requirements for obtaining such licences are considerably relaxed for them. The licence will as a rule only be refused if the weapon authorities have reason to believe that the applicant lacks the required integrity and fitness. The authorities have been granted the discretion to refrain from requiring an examination of integrity and fitness.

If firearms other than those licensed for the named purposes are to be brought into the country, the above privileges do not apply – a German travel licence must be applied for under the normal conditions.

6.5.Other exceptions

6.5.1. German licences for the possession of firearms (Waffenbesitzkarten)

A travel licence is not required if the traveller holds a German Waffenbesitzkarte for the weapons and ammunition concerned. A

German Waffenbesitzkarte can in certain circumstances be issued to persons resident abroad (e.g. foreign hunters with rights over hunting grounds in Germany).

6.5.2. Arms used for signalling

Arms used for signalling that are carried on ships for safety reasons, and their ammunition, do not require a licence.

A German travel licence may be issued for up to one year for either a single journey or multiple journeys, and may be repeatedly extended for periods of one year.

If travelling with weapons or ammunition when changing planes at a German airport and the weapon/ammunition will not be checked through to the destination airport, please see section 5 above. If a travel licence is required, it should be applied for from the weapon authority responsible for the particular airport using the application form.

Persons travelling with firearms must transport their weapons and ammunition safely, i.e. these must not be readily accessible or ready to fire during the journey and must be kept in a securely locked container. If a weapon is readily accessible during the journey (e.g. in the glove compartment of a car) or is ready to fire, then it is not merely being brought on the journey – it is being carried. Carrying firearms requires an additional licence. Carrying them without such a licence is a criminal offence.

The requirements for granting licences to carry and fire weapons brought into Germany for the purposes of hunting, target shooting or participating in riflemen's meetings are set out in sections 9 and 10 below.

Persons authorized to travel to or through Germany with weapons and ammunition (i.e. in cases where a travel licence is not required or where a travel licence has been obtained) do not require a German licence for the possession of firearms (Waffenbesitzkarte).

7. Export authorizations from the Federal Office of Economics and Export Control

When exporting weapons and ammunition from Germany to a third state, the relevant licences must be obtained under the Weapons Act and the General Ordinance on the Weapons Act. In addition, pursuant to the provisions of the Foreign Trade and Payments Act and Ordinance, it may be necessary to obtain an export authorization from the Federal Office of Economics and Export Control (BAFA).

An authorization from the BAFA is, as a matter of principle, required for any export of restricted weapons and matching ammunition from Germany to a non-EU country. In contrast, the export of weapons that are in principle restricted (excluding war weapons) and matching ammunition to another EU member state may be effected without an export authorization.

The export of weapons and ammunition from Germany to a non-EU country for one's own use does not require an export authorization from the BAFA if the weapon or ammunition is to be taken into the new country for no more than 3 months by an EU resident or was imported into the EU by a non-EU resident for his own use and is being exported by him again.

Certain weapons are exempted from the authorization requirement. In cases of doubt, please contact the BAFA to clarify whether you need an authorization – for example because of the country of destination or the length of time for which the weapon or ammunition will remain abroad.

Federal Office of Economics and Export Control (BAFA)
Postfach 5160
65721 Eschborn
Telephone: +49 (0) 6196 908-0
Fax: +49 (0) 6196 908-800
<http://ausfuhrkontrolle.info>

8. The obligation to declare weapons at borders when transferring or travelling with them from third countries

When transferring or travelling with weapons or ammunition to or through Germany from a non-EU country, the weapon/ammunition must be declared to the customs authorities and border police at the border and, if requested, demonstrated. The documents entitling the holder to transfer or travel with them (see sections 5 and 6 above) must be presented. Customs officials and the Federal Police may stop and inspect vehicles and containers as well as the loading gear and the packaging materials used in order to check whether the provisions on transfer and travel into or through Germany have been met.

Items do not have to be declared when entering Germany from another EU member state.

9. Carrying arms in Germany

The following principles apply to carrying arms in Germany:

- A firearms certificate is always required. Since 1 April 2003, certificates are even required for arms used as warning devices or alarms or to fire non-lethal incapacitants or used for signalling, which were previously exempt (see section 4.4 above). A "minor firearms certificate" for these types of weapons is issued to persons who are at least 18 years old and have demonstrated their integrity and personal fitness.
- Even holders of firearms certificates may not carry their weapons at public entertainments, fairs, sports events, trade fairs, exhibitions, markets and similar public events.

Special rules apply to the following categories of people:

9.1. Exceptions for hunters

Hunters holding a German hunting licence (including a German annual

or day "hunting licence for foreigners") do not require a firearms certificate to carry hunting weapons, ready to fire, within the hunting grounds for the purposes of hunting, training hounds, and protecting game and forests. Hunters holding a young persons hunting licence may carry hunting weapons, ready to fire, within the hunting grounds for the purposes of training or hunting, including shooting competitions for hunters, without holding a firearms certificate. Hunters may also transport their weapons outside the hunting grounds, e.g. between their home and the hunting grounds or to a gunsmith, without a certificate, provided the weapons are not readily accessible and not ready to fire.

9.2. Exceptions for members of traditional rifle associations

Two different certificates are required to carry single-shot or repeating long weapons, ready to fire, at a riflemen's meeting – a waiver for carrying a weapon at all and an exemption from the ban on carrying weapons at public events. These two certificates do not need to be applied for by each participant in the meeting – they will rather be issued to a leading member of the riflemen's association organizing the event, if it is guaranteed that due care will be exercised. The single-shot and repeating long weapons may be transported outside the event grounds, e.g. from participants' homes to the grounds, without a certificate, provided the weapons are not readily accessible and not ready to fire.

10. Firing weapons in Germany

A licence is always required before a weapon may be fired. Special rules apply to the following categories of people:

10.1. Exceptions for hunters

Hunters holding a German hunting licence (including an annual or day "hunting licence for foreigners") do not require a normal firing licence (Erlaubnisschein) to fire hunting weapons within the hunting grounds for the purposes of hunting, training hounds, or protecting game or forests. Hunters holding a young persons hunting licence may fire hunting weapons within the hunting grounds at training sessions or hunts, including shooting competitions for hunters, without a normal licence.

10.2. Exceptions for members of traditional rifle associations

Firing cartridges from single-shot or repeating long weapons at a riflemen's meeting does require authorization, but licences do not have to be applied for by each individual participant. Authorization will rather be granted for multiple events over a period of up to five years to a leading member of the riflemen's association organizing the event, provided due care is taken, liability insurance has been taken out, the event cannot present any danger to public safety and there are no other reasons for not granting the authorization.

10.3. Exceptions for private grounds

Certain types of low penetration weapons or firearms that take cartridges may be fired on one's own fenced-in property without official authorization, provided the projectiles cannot escape from the property. The same weapons may also be fired on fenced-in property belonging to others, provided the owner has consented to shooting on his property.

10.4. Exceptions for marksmen

Marksmen may fire their weapons at officially approved shooting ranges or, as participants in approved target shooting competitions, at other shooting ranges, without any special official licence.

11. General exceptions to licence requirements

General exceptions, in particular to the licence requirement for carrying weapons (Waffenschein), apply above all in one's own home, business premises or fenced-in property; a legally acquired and held weapon may be carried in these places, ready to fire, without official authorization. This privilege also applies to the home, business premises or fenced-in property of another person (with their consent) and to the transport of weapons on unavoidable journeys directly relating to the purpose for which they were acquired. One may also fire one's weapon at licensed shooting ranges without a licence of one's own.

Under the general rules of criminal law, one may also fire one's weapon in self-defence, to defend another or if justified by necessity.

12. German weapon authorities

The Federal Office of Administration (Bundesverwaltungsamt) is responsible for diplomats and consular officers at foreign missions in Germany, state guests and other guests of the Federation, foreign members of foreign armed forces stationed in Germany and their families, persons deployed to protect foreign aircraft and ships, and Germans as defined in Article 116 of the Basic Law who are permanently resident outside the territorial area over which that Law applies.

In the absence of any provisions to the contrary, the Federal Ministry of the Interior is responsible for German (federal) public figures who are at risk.

In all other cases, the Länder authorities designated by ordinance by the Länder Governments are responsible. As a rule, the Länder have designated district bodies (Kreisverwaltungen, Landratsämter), local police authorities, or other local agencies. The geographical jurisdiction of the various authorities is usually determined by the standard provisions of administrative procedural law. The Weapons Act however has its own rules for some specific cases. For example, the authority responsible for an applicant who is neither a German national nor permanently resident in Germany is the authority in the district in which he is presently staying or will stay. In the absence of a proven intention to stay in Germany (e.g. in the case of a transfer through Germany), responsibility lies with the authority in whose district the border is crossed.

The Federal Office of Economics and Export Control is responsible for issuing export authorizations for weapons and ammunition leaving Germany (see section 7 above)