

These notes relate to the Custodial Sentences and Weapons (Scotland) Act 2007 (asp 17) which received Royal Assent on 19 April 2007

CUSTODIAL SENTENCES AND WEAPONS (SCOTLAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 3 – Weapons

Possession of weapons in prisons etc.

Section 63 – Possession of weapons in prisons etc.

166. **Section 63** amends the Criminal Law (Consolidation) (Scotland) Act 1995 by inserting a new section 49C to provide for a new offence of having offensive weapons or articles with a blade or point (including knives) in a prison (as defined in section 49C(7)). Section 49C(2) provides a defence of ‘good reason or lawful authority’, which is exemplified by section 49C(3). Sections 49C(4) and 49C(5) replicate for prisons the provisions in sections 47(2) and 49(6) of the 1995 Act on forfeiture and disposal of weapons. Section 49C(6) provides for a maximum penalty, on summary conviction, of imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both. The statutory maximum is currently £5,000, though section 48 of the Criminal Proceedings etc. Reform (Scotland) Act 2007 provides for it be increased to £10,000. The maximum penalty, on conviction on indictment, is imprisonment for a term not exceeding 4 years or an unlimited fine or both. The provisions of this section are modelled on sections 49 and 49A of the 1995 Act which deal with possession of similar weapons in public and in schools.