



Custodial Sentences and Weapons (Scotland) Act 2007

2007 asp 17

PART 3

WEAPONS

Sale etc. of weapons

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(1) In section 141 of the Criminal Justice Act 1988 (c. 33) (prohibition on sale etc. of certain weapons)—

- (a) in each of subsections (5), (8) and (9), for “prove” substitute “show”, and
- (b) after subsection (11) insert—

“(11A) Subject to subsection (11C), where a person is charged with an offence under subsection (1) above in respect of conduct of his relating to a weapon to which this section applies, it shall be a defence to show that his conduct was for the purpose only of making the weapon in question available for one or more of the purposes specified in subsection (11B).

(11B) Those purposes are—

- (a) the purposes of theatrical performances and of rehearsals for such performances;
- (b) the production of films (as defined in section 5B of the Copyright, Designs and Patents Act 1988 (c. 48));
- (c) the production of television programmes (as defined in section 405(1) of the Communications Act 2003 (c. 21)).

(11C) Where—

- (a) a person is charged with an offence under subsection (1) above in respect of conduct of his relating to a weapon to which this section applies (a “relevant weapon”), and

Status: This is the original version (as it was originally enacted).

- (b) the relevant weapon is one the importation of which is prohibited,
subsection (11A) does not apply unless the condition in subsection (11D) is satisfied.
- (11D) The condition is that there is in force as respects Scotland provision to the effect that it is a defence for a person (“A”) charged with a relevant offence in respect of A’s conduct relating to a relevant weapon to show that A’s conduct was for the purpose only of making the weapon in question available for one or more of the purposes specified in subsection (11B).
- (11E) In subsection (11D), “relevant offence” means an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979 (c. 2) (penalty for improper importation of goods).
- (11F) For the purposes of this section, a person shall be taken to have shown a matter specified in subsection (5), (8), (9) or (11A) above if—
- (a) sufficient evidence of the matter is adduced to raise an issue with respect to it; and
 - (b) the contrary is not proved beyond a reasonable doubt.
- (11G) The Scottish Ministers may by order made by statutory instrument modify the application of this section in relation to any description of weapon specified in the order.
- (11H) An order under subsection (11G) may make different provision for different purposes.
- (11J) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament.”.
- (2) The defence in section 141(11A) of the Criminal Justice Act 1988 (c. 33) is not available in relation to so much of any charge as relates to conduct taking place before the commencement of this section.