

## SCHEDULES

### SCHEDULE 26

Section 142

#### KNIVES AND OFFENSIVE WEAPONS: MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Prevention of Crime Act 1953 (c. 14)*

- 1 In section 2(3) of the Prevention of Crime Act 1953 (extent) for “shall not extend to Northern Ireland” substitute “extends to England and Wales only”.

##### *Mental Health Act 1983 (c. 20)*

- 2 (1) Section 37(1A) of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship) is amended as follows.
- (2) Before paragraph (a) insert—  
“(za) under section 1A(5) of the Prevention of Crime Act 1953,”.
- (3) After paragraph (a) insert—  
“(aa) under section 139AA(7) of the Criminal Justice Act 1988,”.

##### *Police and Criminal Evidence Act 1984 (c. 60)*

- 3 In section 1(8A) of the Police and Criminal Evidence Act 1984 (power of constable to stop and search persons, vehicles etc) after “139” insert “or 139AA”.

##### *Criminal Justice Act 1988 (c. 33)*

- 4 The Criminal Justice Act 1988 is amended as follows.
- 5 (1) Section 36(2)(b) (reviews of sentencing) is amended as follows.
- (2) Before sub-paragraph (i) insert—  
“(zi) section 1A(5) of the Prevention of Crime Act 1953,”.
- (3) After sub-paragraph (i) insert—  
“(ia) section 139AA(7) of this Act,”.
- 6 (1) Section 139B (power of entry to search for articles with a blade or point and offensive weapons) is amended as follows.
- (2) In subsection (1) after “139A” insert “or 139AA”.
- (3) In subsection (4)—  
(a) after “In the application of this section to Northern Ireland” insert “—  
(a)”;
- (b) at the end add “, and  
“(b) the reference in subsection (1) to section 139AA is omitted.”

- 7 In section 172(3) (provisions extending to Northern Ireland) for “sections 139 to 139B” substitute—  
     “section 139;  
     section 139A;  
     section 139B;”.

*Youth Justice and Criminal Evidence Act 1999 (c. 23)*

- 8 (1) Schedule 1A to the Youth Justice and Criminal Evidence Act 1999 (relevant offences for the purposes of section 17: witnesses eligible for assistance on grounds of fear or distress about testifying) is amended as follows.
- (2) After paragraph 9 insert—  
     “9A An offence under section 1A of that Act (threatening with offensive weapon in public).”
- (3) After paragraph 26 insert—  
     “26A An offence under section 139AA of that Act (threatening with article with blade or point or offensive weapon).”

*Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

- 9 The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.
- 10 In section 12(1) (absolute and conditional discharge) for “section 51A(2) of the Firearms Act 1968” substitute “section 1A(5) of the Prevention of Crime Act 1953, section 51A(2) of the Firearms Act 1968, section 139AA(7) of the Criminal Justice Act 1988”.
- 11 In section 100 (offenders under 18: detention and training orders) after subsection (1) insert—  
     “(1A) Subsection (1) applies with the omission of paragraph (b) in the case of an offence the sentence for which falls to be imposed under these provisions—  
         (a) section 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for offence of threatening with offensive weapon in public);  
         (b) section 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for offence of threatening with article with blade or point or offensive weapon).”
- 12 In section 130(2) (compensation orders against convicted persons) for “section 51A(2) of the Firearms Act 1968” substitute “section 1A(5) of the Prevention of Crime Act 1953, section 51A(2) of the Firearms Act 1968, section 139AA(7) of the Criminal Justice Act 1988”.
- 13 In section 146(2) (driving disqualification for any offence) for “section 51A(2) of the Firearms Act 1968” substitute “section 1A(5) of the Prevention of Crime Act 1953, section 51A(2) of the Firearms Act 1968, section 139AA(7) of the Criminal Justice Act 1988”.
- 14 (1) Section 164(3) (further interpretative provisions) is amended as follows.  
     (2) After paragraph (a) insert—  
         “(aa) under section 1A(5) of the Prevention of Crime Act 1953,”.

(3) After paragraph (b) insert—

“(ba) under section 139AA(7) of the Criminal Justice Act 1988,”.

*Criminal Justice Act 2003 (c 44)*

15 The Criminal Justice Act 2003 is amended as follows.

16 (1) Section 142(2)(c) (purposes of sentencing: offenders aged 18 or over) is amended as follows.

(2) After “falls to be imposed” insert “under section 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for offence of threatening with offensive weapon in public),”.

(3) After “firearms offences),” insert “under section 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for offence of threatening with article with blade or point or offensive weapon),”.

17 (1) Section 142A(4)(b) (purposes of sentencing: offenders under 18) is amended as follows.

(2) Before sub-paragraph (i) insert—

“(zi) section 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for offence of threatening with offensive weapon in public),”.

(3) After sub-paragraph (i) insert—

“(ia) section 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for offence of threatening with article with blade or point or offensive weapon),”.

18 (1) Section 144 (reduction in sentences for early guilty pleas) is amended as follows.

(2) In subsection (2)—

(a) for “subsection (2) of section 110 or 111 of the Sentencing Act” substitute “a provision mentioned in subsection (3)”;

(b) for “that subsection” in each place substitute “that provision”.

(3) After that subsection insert—

“(3) The provisions referred to in subsection (2) are—

section 1A(6)(a) of the Prevention of Crime Act 1953;

section 110(2) of the Sentencing Act;

section 111(2) of the Sentencing Act;

section 139AA(8)(a) of the Criminal Justice Act 1988.

(4) In the case of an offence the sentence for which falls to be imposed under a provision mentioned in subsection (5), nothing in that provision prevents the court from imposing any sentence that it considers appropriate after taking into account any matter referred to in subsection (1) of this section.

(5) The provisions referred to in subsection (4) are—

section 1A(6)(b) of the Prevention of Crime Act 1953;

section 139AA(8)(b) of the Criminal Justice Act 1988.”

- 19 (1) Section 150 (community sentence not available where sentence fixed by law etc) is amended as follows.
- (2) After paragraph (a) insert—
- “(aa) falls to be imposed under section 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for offence of threatening with offensive weapon in public),”.
- (3) After paragraph (b) insert—
- “(ba) falls to be imposed under section 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for offence of threatening with article with blade or point or offensive weapon),”.
- 20 In section 152(1)(b) (general restrictions on imposing discretionary custodial sentences) for “under section 51A(2) of the Firearms Act 1968 (c. 27),” substitute “under section 1A(5) of the Prevention of Crime Act 1953, under section 51A(2) of the Firearms Act 1968, under section 139AA(7) of the Criminal Justice Act 1988,”.
- 21 In section 153(2) (length of discretionary custodial sentences: general provision) for “section 51A(2) of the Firearms Act 1968 (c. 27),” substitute “section 1A(5) of the Prevention of Crime Act 1953, section 51A(2) of the Firearms Act 1968, section 139AA(7) of the Criminal Justice Act 1988,”.
- 22 (1) Section 305(4) (interpretation of Part 12) is amended as follows.
- (2) Before paragraph (a) insert—
- “(za) a sentence falls to be imposed under subsection (5) of section 1A of the Prevention of Crime Act 1953 if it is required by that subsection and the court is not of the opinion there mentioned,”.
- (3) After paragraph (a) insert—
- “(aa) a sentence falls to be imposed under subsection (7) of section 139AA of the Criminal Justice Act 1988 if it is required by that subsection and the court is not of the opinion there mentioned,”.

*Armed Forces Act 2006 (c. 52)*

- 23 The Armed Forces Act 2006 is amended as follows.
- 24 After section 227 (firearms offences) insert—

**“227A Offences of threatening with a weapon in public or on school premises**

- (1) This section applies if—
- (a) a person aged 18 or over is convicted by a court of an offence under section 42 (criminal conduct); and
  - (b) the corresponding offence under the law of England and Wales is an offence under section 1A of the Prevention of Crime Act 1953 or section 139AA of the Criminal Justice Act 1988 (threatening with article with blade or point or offensive weapon in public or on school premises).
- (2) The court must impose a sentence of imprisonment for a term of at least 6 months unless the court is of the opinion that there are particular circumstances which—

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

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- (a) relate to the offence or to the offender, and
  - (b) would make it unjust to do so in all the circumstances.
- (3) In relation to times before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000, the reference in subsection (2) to a sentence of imprisonment, in relation to an offender aged under 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.”
- 25 In section 237(3) (duty to have regard to purposes of sentencing etc) after paragraph (b) insert “;
- (c) an offence the sentence for which falls to be imposed under section 227A(2).”
- 26 In section 239 (reduction in sentences for guilty pleas) at the end insert—
  - “(6) Nothing in section 227A(2) prevents the court, after taking into account any matter mentioned in subsection (2) of this section, from imposing any sentence which is at least 80% of that specified in section 227A(2).”
- 27 In section 260(1)(b) (discretionary custodial sentences: general restrictions) for “227” substitute “227A”.
- 28 In section 261(3) (length of discretionary custodial sentences: general provision) for “and 227” substitute “, 227 and 227A”.
- 29 In section 273(6)(b) (review of unduly lenient sentence by Court Martial Appeal Court) for “or 227” substitute “, 227 or 227A”.
- 30 (1) Paragraph 12 of Schedule 2 (“Schedule 2 offences”) is amended as follows.
  - (2) After sub-paragraph (r) insert—
    - “(ra) an offence under section 1A of the Prevention of Crime Act 1953 (threatening with offensive weapon in public);”.
  - (3) In sub-paragraph (ai)—
    - (a) after “134” insert “, 139AA”;
    - (b) after “torture,” insert “threatening with article with blade or point or offensive weapon,”.

*Coroners and Justice Act 2009 (c. 25)*

- 31 (1) Section 125(6) of the Coroners and Justice Act 2009 (sentencing guidelines: duty of court) is amended as follows.
  - (2) After paragraph (e) insert—
    - “(ea) section 1A(5) of the Prevention of Crime Act 1953 (minimum sentence for offence of threatening with offensive weapon in public);”.
  - (3) After paragraph (f) insert—
    - “(fa) section 139AA(7) of the Criminal Justice Act 1988 (minimum sentence for offence of threatening with article with blade or point or offensive weapon);”.