SCOTTISH STATUTORY INSTRUMENTS

2005 No. 483

CRIMINAL LAW

The Criminal Justice Act 1988 (Offensive Weapons) (Scotland) Order 2005

Made - - - -	*28th September 2005*
Coming into force - -	*29th September 2005*

The Scottish Ministers, in exercise of the powers conferred by section 141(2) of the Criminal Justice Act 1988(**1**) and of all other powers enabling them in that behalf, hereby make the following Order, a draft of which has, in accordance with section 141(3) of that Act, been laid before and approved by resolution of the Scottish Parliament:

Citation, commencement and extent

1.—(1) This Order may be cited as the Criminal Justice Act 1988 (Offensive Weapons) (Scotland) Order 2005 and shall come into force on the day after the day on which it is made.

(2) This Order extends to Scotland and, in so far as it extends beyond Scotland, it does so only as a matter of Scots law.

Application of section 141 of the Criminal Justice Act 1988

2. The Schedule to this Order shall have effect.

Revocation

3. The Criminal Justice Act 1988 (Offensive Weapons) Order 1988(**2**) and the Criminal Justice Act 1988 (Offensive Weapons) Amendment (Scotland) Order 2002(**3**) are hereby revoked.

(**1**) 1988 c. 33. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
(**2**) S.I.1988/2019.
(**3**) S.S.I. 2002/323.

St Andrew's House, Edinburgh
28th September 2005

CATHY JAMIESON
A member of the Scottish Executive

SCHEDULE

Article 2

1. Section 141 of the Criminal Justice Act 1988 (offensive weapons) shall apply to the following descriptions of weapons, other than weapons of those descriptions which are antiques for the purposes of this Schedule:

(a) a knuckleduster, that is, a band of metal or other hard material worn on one or more fingers, and designed to cause injury, and any weapon incorporating a knuckleduster;

(b) a swordstick, that is, a hollow walking stick or cane containing a blade which may be used as a sword;

(c) the weapon sometimes known as a "handclaw", being a band of metal or other hard material from which a number of sharp spikes protrude, and worn around the hand;

(d) the weapon sometimes known as a "belt buckle knife", being a buckle which incorporates or conceals a knife;

(e) the weapon sometimes known as a "push dagger", being a knife the handle of which fits within a clenched fist and the blade of which protrudes from between two fingers;

(f) the weapon sometimes known as a "hollow kubotan", being a cylindrical container containing a number of sharp spikes;

(g) the weapon sometimes known as a "footclaw", being a bar of metal or other hard material from which a number of sharp spikes protrude, and worn strapped to the foot;

(h) the weapon sometimes known as a "shuriken", "shaken" or "death star", being a hard non flexible plate having three or more sharp radiating points and designed to be thrown;

(i) the weapon sometimes known as a "balisong" or "butterfly knife", being a blade enclosed by its handle, which is designed to split down the middle, without the operation of a spring or other mechanical means, to reveal the blade;

(j) the weapon sometimes known as a "telescopic truncheon", being a truncheon which extends automatically by hand pressure applied to a button, spring or other device in or attached to its handle;

(k) the weapon sometimes known as a "blowpipe" or "blow gun", being a hollow tube out of which hard pellets or darts are shot by the use of breath;

(l) the weapon sometimes known as a "kusari gama", being a length of rope, cord, wire or chain fastened at one end to a sickle;

(m) the weapon sometimes known as a "kyoketsu shoge", being a length of rope, cord, wire or chain fastened at one end to a hooked knife;

(n) the weapon sometimes known as a "manrikigusari" or "kusari", being a length of rope, cord, wire or chain fastened at each end to a hard weight or hand grip;

(o) a disguised knife, that is any knife which has a concealed blade or concealed sharp point and is designed to appear to be an everyday object of a kind commonly carried on the person or in a handbag, briefcase, or other hand luggage (such as a comb, brush, writing instrument, cigarette lighter, key, lipstick or telephone);

(p) a stealth knife, that is a knife or spike, which has a blade, or sharp point, made from a material that is not readily detectable by apparatus used for detecting metal and which is not designed for domestic use or for use in the processing, preparation or consumption of food or as a toy;

(q) a straight, side handled or friction lock truncheon (sometimes known as a baton).

2. For the purposes of this Schedule, a weapon is an antique if it was manufactured more than 100 years before the date of any offence alleged to have been committed in respect of that weapon under

subsection (1) of the said section 141 or section 50(2) or (3) of the Customs and Excise Management Act 1979(**4**) (improper importation).

EXPLANATORY NOTE

(This note is not part of the Order)

Section 141(1) of the Criminal Justice Act 1988 ("the 1988 Act") provides that any person who manufactures, sells or hires, or offers for sale or hire, exposes or has in his or her possession for the purpose of sale or hire, or lends or gives to any other person, a weapon to which that section applies shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or both. The import of any such weapon is prohibited by section 141(4) of the 1988 Act.

There are defences under section 141 in respect of weapons which are made available to a museum or gallery or used for cultural, artistic or educational purposes if lent or hired from a museum or gallery, and in respect of weapons used for the purposes of the Crown or of a visiting force as defined in subsection (6) of that section.

This Order specifies the descriptions of weapons to which section 141 of the 1988 Act applies. Antique weapons, which are defined as weapons over 100 years old at the time of the alleged offence, are excluded.

This Order revokes the Criminal Justice Act 1988 (Offensive Weapons) Order 1988 and the Criminal Justice Act 1988 (Offensive Weapons) Amendment (Scotland) Order 2002. It replaces those orders with a single order for Scotland and adds two new categories of weapon, the stealth knife and the straight, side handled or friction lock truncheon to the list of weapons previously specified.

By virtue of article 1(1), the Order comes into force on the day after the day on which it was made.

(**4**) 1979 c. 2.