



# Criminal Justice Act 1988

## 1988 CHAPTER 33

### PART XI

#### MISCELLANEOUS

##### *Articles with blades or points and offensive weapons*

#### **139 Offence of having article with blade or point in public place.**

- (1) Subject to subsections (4) and (5) below, any person who has an article to which this section applies with him in a public place shall be guilty of an offence.
- (2) Subject to subsection (3) below, this section applies to any article which has a blade or is sharply pointed except a folding pocketknife.
- (3) This section applies to a folding pocketknife if the cutting edge of its blade exceeds 3 inches.
- (4) It shall be a defence for a person charged with an offence under this section to prove that he had good reason or lawful authority for having the article with him in a public place.
- (5) Without prejudice to the generality of subsection (4) above, it shall be a defence for a person charged with an offence under this section to prove that he had the article with him—
  - (a) for use at work;
  - (b) for religious reasons; or
  - (c) as part of any national costume.
- (6) A person guilty of an offence under subsection (1) above shall be liable—
  - [<sup>F1</sup>(a) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.]

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- (7) In this section “public place” includes any place to which at the material time the public have or are permitted access, whether on payment or otherwise.
- (8) This section shall not have effect in relation to anything done before it comes into force.

#### Textual Amendments

**F1** S. 139(6)(a)(b) substituted (4.7.1996) for words by 1996 c. 26, s.3(1) (with s. 3(2))

### [139A <sup>F2</sup>Offence of having article with blade or point (or offensive weapon) on school premises.

- (1) Any person who has an article to which section 139 of this Act applies with him on school premises shall be guilty of an offence.
- (2) Any person who has an offensive weapon within the meaning of section 1 of the <sup>M1</sup>Prevention of Crime Act 1953 with him on school premises shall be guilty of an offence.
- (3) It shall be a defence for a person charged with an offence under subsection (1) or (2) above to prove that he had good reason or lawful authority for having the article or weapon with him on the premises in question.
- (4) Without prejudice to the generality of subsection (3) above, it shall be a defence for a person charged with an offence under subsection (1) or (2) above to prove that he had the article or weapon in question with him—
- (a) for use at work,
  - (b) for educational purposes,
  - (c) for religious reasons, or
  - (d) as part of any national costume.
- (5) A person guilty of an offence—
- (a) under subsection (1) above shall be liable—
    - (i) on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both;
    - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both;
  - (b) under subsection (2) above shall be liable—
    - (i) on summary conviction, to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both;
    - (ii) on conviction on indictment, to imprisonment for a term not exceeding four years, or a fine, or both.
- (6) In this section and section 139B, “school premises” means land used for the purposes of a school excluding any land occupied solely as a dwelling by a person employed at the school; and “school” has the meaning given by [<sup>F3</sup>section 4 of the Education Act 1996].
- (7) In the application of this section to Northern Ireland—

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- (a) the reference in subsection (2) above to section 1 of the <sup>M2</sup>Prevention of Crime Act 1953 is to be construed as a reference to Article 22 of the <sup>M3</sup>Public Order (Northern Ireland) Order 1987; and
- (b) the reference in subsection (6) above to [<sup>F3</sup>section 4 of the Education Act 1996] is to be construed as a reference to Article 2(2) of the <sup>M4</sup>Education and Libraries (Northern Ireland) Order 1986.

#### Textual Amendments

**F2** S. 139A inserted (1.9.1996) by 1996 c. 26, s. 4(1)(4); S.I. 1996/2071, art. 2

**F3** Words in s. 139A(6)(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para.69 (with ss. 1(4), 582(3), Sch. 39)

#### Marginal Citations

**M1** 1953 c. 14.

**M2** 1953 c. 14.

**M3** S.I. 1987/463 (N.I. 7).

**M4** S.I. 1986/594 (N.I. 3).

### **139B** <sup>F4</sup>**Power of entry to search for articles with a blade or point and offensive weapons.**

- (1) A constable may enter school premises and search those premises and any person on those premises for—
  - (a) any article to which section 139 of this Act applies, or
  - (b) any offensive weapon within the meaning of section 1 of the Prevention of Crime Act 1953,if he has reasonable grounds for believing that an offence under section 139A of this Act is being, or has been, committed.
- (2) If in the course of a search under this section a constable discovers an article or weapon which he has reasonable grounds for suspecting to be an article or weapon of a kind described in subsection (1) above, he may seize and retain it.
- (3) The constable may use reasonable force, if necessary, in the exercise of the power of entry conferred by this section.
- (4) In the application of this section to Northern Ireland the reference in subsection (1) (b) above to section 1 of the Prevention of Crime Act 1953 is to be construed as a reference to Article 22 of the Public Order (Northern Ireland) Order 1987.

#### Textual Amendments

**F4** S. 139B inserted (1.9.1996) by 1996 c. 26, s. 4(1)(4); S.I. 1996/2071, art.2

### **140** **Extension of constable's power to stop and search.**

- (1) In section 1 of the <sup>M5</sup>Police and Criminal Evidence Act 1984 (powers of constable to stop and search)—
  - (a) the words “or any article to which subsection (8A) below applies” shall be inserted—

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- (i) in subsection (2)(a), after the word “articles”; and
  - (ii) at the end of subsection (3);
  - (b) in subsection (6), after the word “article”, in the second place where it occurs, there shall be inserted the words “or an article to which subsection (8A) below applies”; and
  - (c) the following subsection shall be inserted after subsection (8)—
    - “(8A) This subsection applies to any article in relation to which a person has committed, or is committing or is going to commit an offence under section 139 of the Criminal Justice Act 1988.”.
- (2) In section 5(2)(a)(ii) of that Act (annual reports to contain total numbers of searches for offensive weapons) after the word “weapons” there shall be inserted the words “or articles to which section 1(8A) above applies”.

#### Marginal Citations

M5 1984 c. 60.

### 141 Offensive weapons.

- (1) Any person who manufactures, sells or hires or offers for sale or hire, exposes or has in his possession for the purpose of sale or hire, or lends or gives to any other person, a weapon to which this 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.
- (2) The Secretary of State may by order made by statutory instrument direct that this section shall apply to any description of weapon specified in the order except—
  - (a) any weapon subject to the <sup>M6</sup>Firearms Act 1968; and
  - (b) crossbows.
- (3) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before Parliament and has been approved by a resolution of each House of Parliament.
- (4) The importation of a weapon to which this section applies is hereby prohibited.
- (5) It shall be a defence for any person charged in respect of any conduct of his relating to a weapon to which this section applies—
  - (a) with an offence under subsection (1) above; or
  - (b) with an offence under section 50(2) or (3) of the <sup>M7</sup>Customs and Excise Management Act 1979 (improper importation),
 to prove that his conduct was only for the purposes of functions carried out on behalf of the Crown or of a visiting force.
- (6) In this section the reference to the Crown includes the Crown in right of Her Majesty’s Government in Northern Ireland; and
  - “visiting force” means any body, contingent or detachment of the forces of a country—
    - (a) mentioned in subsection (1)(a) of section 1 of the <sup>M8</sup>Visiting Forces Act 1952; or

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- (b) designated for the purposes of any provision of that Act by Order in Council under subsection (2) of that section,  
which is present in the United Kingdom (including United Kingdom territorial waters) or in any place to which subsection (7) below applies on the invitation of Her Majesty's Government in the United Kingdom.
- (7) This subsection applies to any place on, under or above an installation in a designated area within the meaning of section 1(7) of the <sup>M9</sup>Continental Shelf Act 1964 or any waters within 500 metres of such an installation.
- (8) It shall be a defence for any person charged in respect of any conduct of his relating to a weapon to which this section applies—
- (a) with an offence under subsection (1) above; or
- (b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,  
to prove that the conduct in question was only for the purposes of making the weapon available to a museum or gallery to which this subsection applies.
- (9) If a person acting on behalf of a museum or gallery to which subsection (8) above applies is charged with hiring or lending a weapon to which this section applies, it shall be a defence for him to prove that he had reasonable grounds for believing that the person to whom he lent or hired it would use it only for cultural, artistic or educational purposes.
- (10) Subsection (8) above applies to a museum or gallery only if it does not distribute profits.
- (11) In this section “museum or gallery” includes any institution which has as its purpose, or one of its purposes, the preservation, display and interpretation of material of historical, artistic or scientific interest and gives the public access to it.
- (12) This section shall not have effect in relation to anything done before it comes into force.
- (13) In the application of this section to Northern Ireland the reference in subsection (2) above to the <sup>M10</sup>Firearms Act 1968 shall be construed as a reference to the <sup>M11</sup>Firearms (Northern Ireland) Order [<sup>F5</sup>2004] .

#### Textual Amendments

- F5** Word in s. 141(13) substituted (1.2.2005) by [The Firearms \(Northern Ireland\) Order 2004 \(S.I. 2004/702 \(N.I. 3\)\)](#), arts. 81, 82, **Sch. 7 para. 11**; S.R. 2005/4, **art. 3** (with transitional provisions in arts. 4-7)

#### Modifications etc. (not altering text)

- C1** S. 141 applied (S.) (29.9.2005) by [The Criminal Justice Act 1988 \(Offensive Weapons\) \(Scotland\) Order 2005 \(S.S.I. 2005/483\)](#), art. 2, **Sch.**

#### Marginal Citations

- M6** 1968 c. 27.  
**M7** 1979 c. 2.  
**M8** 1952 c. 67.  
**M9** 1964 c. 29.  
**M10** 1968 c. 27.

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**M11** S.I. 1981/155 (N.I. 2).

VALID FROM 01/11/2007

**[<sup>F6</sup>141ZA] Application of section 141 to swords: further provision**

- (1) This section applies where the Scottish Ministers make an order under subsection (2) of section 141 directing that the section shall apply to swords.
- (2) The Scottish Ministers may include in the order provision for or in connection with modifying section 141 in its application to swords.
- (3) The Scottish Ministers may in particular—
  - (a) provide for defences (including in particular defences relating to religious, cultural or sporting purposes) to offences;
  - (b) increase the penalties specified in subsection (1) of section 141 (or that subsection as modified) so as to make a person liable—
    - (i) on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine or both;
    - (ii) on summary conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or both;
  - (c) create an offence (punishable on summary conviction only and subject to a penalty which is no greater than that mentioned in subsection (6)) relating to the provision, without reasonable excuse, of false information by a person acquiring a sword in circumstances specified in the order.
- (4) In making provision under subsection (3)(a) the Scottish Ministers may make provision for or in connection with—
  - (a) the granting, and revocation, by them of authorisations in relation to the acquisition of swords;
  - (b) enabling them to specify conditions in such authorisations;
  - (c) requiring persons to whom authorisations are granted to comply with such conditions;
  - (d) making it an offence (punishable on summary conviction only and subject to a penalty which is no greater than that mentioned in subsection (6)) to fail to comply with any such conditions.
- (5) Defences specified under subsection (3)(a) may relate to swords in general or to a class, or classes, of sword specified in the order.
- (6) The penalty is—
  - (a) imprisonment for a term not exceeding 12 months; or
  - (b) a fine not exceeding level 5 on the standard scale,
 or both.
- (7) The power conferred by subsection (2) is without prejudice to the generality of the power conferred by section 141(11G).]

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### Textual Amendments

- F6** S. 141ZA inserted (S.) (1.11.2007) by [Custodial Sentences and Weapons \(Scotland\) Act 2007 \(asp 17\)](#), [ss. 61\(2\), 67](#); [S.S.I. 2007/431](#), [art. 3](#), Sch.

PROSPECTIVE

### **Importation of offensive weapons: prohibition**

**141ZB**

- (1) The importation of an offensive weapon is prohibited, subject to section 141ZC.
- (2) In this section “offensive weapon” means a weapon of a description specified in an order made by the Secretary of State for the purposes of this subsection.
- (3) The Secretary of State may not specify any of the following under subsection (2)—
  - (a) a weapon subject to the Firearms Act 1968;
  - (b) a crossbow.
- (4) Orders under this section are to be made by statutory instrument.
- (5) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) In the application of this section to Northern Ireland the reference in subsection (3) to the Firearms Act 1968 is to be construed as a reference to the Firearms (Northern Ireland) Order 2004.

### Textual Amendments

- F7** S. 139A(5)(6) substituted (5.5.2011) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), [ss. 52](#), 111(1) (with [Sch. 6 para. 4\(2\)](#))
- F8** S. 139A(7)(b) repealed (N.I.) (5.5.2011) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(1), [Sch. 8 Pt. 5](#)
- F9** Words in s. 139A(6)(7) substituted (1.11.1996) by [1996 c. 56](#), [ss. 582\(1\), 583\(2\)](#), [Sch. 37 Pt. I para.69](#) (with [ss. 1\(4\), 582\(3\)](#), [Sch. 39](#))
- F10** Ss. 141ZB-141ZD inserted (prosp.) by [Policing and Crime Act 2009 \(c. 26\)](#), [ss. 102](#), 116

PROSPECTIVE

### **141ZC Prohibition on importation of offensive weapons: exceptions**

- (1) The importation of a weapon is not prohibited by section 141ZB if one of the following exceptions applies.
- (2) Exception 1 is that the weapon is imported for the purposes only of functions carried out on behalf of—
  - (a) the Crown, or
  - (b) a visiting force.



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- (3) Exception 2 is that the weapon is imported for the purposes only of making it available to a museum or gallery which does not distribute profits.
- (4) Exception 3 is that the weapon is imported for the purposes only of making it available for one or more of the following—
- (a) theatrical performances;
  - (b) rehearsals of theatrical performances;
  - (c) the production of films;
  - (d) the production of television programmes.
- (5) In subsection (4)—
- “ films ” has the meaning given by section 5B of the Copyright, Designs and Patents Act 1988;
- “ television programmes ” has the meaning given by section 405 of the Communications Act 2003.
- (6) The Secretary of State may by order provide for further exceptions from the prohibition on importation of weapons under section 141ZB.
- (7) Orders under this section are to be made by statutory instrument.
- (8) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (9) Expressions used in this section and in section 141 have the same meaning in this section as in that section.

#### Textual Amendments

- F7** S. 139A(5)(6) substituted (5.5.2011) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), **ss. 52**, 111(1) (with [Sch. 6 para. 4\(2\)](#))
- F8** S. 139A(7)(b) repealed (N.I.) (5.5.2011) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(1), **Sch. 8 Pt. 5**
- F9** Words in s. 139A(6)(7) substituted (1.11.1996) by [1996 c. 56](#), **ss. 582(1), 583(2)**, **Sch. 37 Pt. 1 para.69** (with [ss. 1\(4\), 582\(3\)](#), [Sch. 39](#))
- F10** Ss. 141ZB-141ZD inserted (prosp.) by [Policing and Crime Act 2009 \(c. 26\)](#), **ss. 102**, 116

PROSPECTIVE

#### **141ZD Prohibition on importation of offensive weapons: burdens of proof**

- (1) This section applies for the purposes of proceedings for an offence under the Customs and Excise Management Act 1979 relating to a weapon the importation of which is prohibited by section 141ZB above.
- (2) An exception conferred by or under section 141ZC is to be taken not to apply unless sufficient evidence is adduced to raise an issue with respect to the exception.
- (3) Where sufficient evidence is adduced to raise an issue with respect to an exception, it is to be taken to apply unless the contrary is proved beyond a reasonable doubt.|||||



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#### Textual Amendments

- F7** S. 139A(5)(6) substituted (5.5.2011) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\), ss. 52, 111\(1\)](#) (with [Sch. 6 para. 4\(2\)](#))
- F8** S. 139A(7)(b) repealed (N.I.) (5.5.2011) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\), s. 111\(1\), Sch. 8 Pt. 5](#)
- F9** Words in s. 139A(6)(7) substituted (1.11.1996) by [1996 c. 56, ss. 582\(1\), 583\(2\), Sch. 37 Pt. I para.69](#) (with [ss. 1\(4\), 582\(3\), Sch. 39](#))
- F10** Ss. 141ZB-141ZD inserted (prosp.) by [Policing and Crime Act 2009 \(c. 26\), ss. 102, 116](#)

### [141A <sup>F11</sup> Sale of knives and certain articles with blade or point to persons under sixteen.

- (1) Any person who sells to a person under the age of sixteen years an article to which this section applies shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.
- (2) Subject to subsection (3) below, this section applies to—
  - (a) any knife, knife blade or razor blade,
  - (b) any axe, and
  - (c) any other article which has a blade or which is sharply pointed and which is made or adapted for use for causing injury to the person.
- (3) This section does not apply to any article described in—
  - (a) section 1 of the <sup>M12</sup>Restriction of Offensive Weapons Act 1959,
  - (b) an order made under section 141(2) of this Act, or
  - (c) an order made by the Secretary of State under this section.
- (4) It shall be a defence for a person charged with an offence under subsection (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (5) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F11** S. 141A inserted (1.1.1997) by [1996 c. 26, s. 6\(1\)\(3\); S.I. 1996/3063, art.2](#)

#### Modifications etc. (not altering text)

- C2** S. 141A(1) excluded (1.1.1997) by [S.I. 1996/3064, art.2](#)

#### Marginal Citations

- M12** [1959 c. 37.](#)

### 142 Power of justice of the peace to authorise entry and search of premises for offensive weapons.

- (1) If on an application made by a constable a justice of the peace (including, in Scotland, the sheriff) is satisfied that there are reasonable grounds for believing—

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- (a) that there are on premises specified in the application—
    - (i) knives such as are mentioned in section 1(1) of the <sup>M13</sup>Restriction of Offensive Weapons Act 1959; or
    - (ii) weapons to which section 141 above applies; and
  - (b) that an offence under section 1 of the Restriction of Offensive Weapons Act 1959 or section 141 above has been or is being committed in relation to them; and
  - (c) that any of the conditions specified in subsection (3) below applies,
- he may issue a warrant authorising a constable to enter and search the premises.
- (2) A constable may seize and retain anything for which a search has been authorised under subsection (1) above.
- (3) The conditions mentioned in subsection (1)(b) above are—
- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;
  - (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the knives or weapons to which the application relates;
  - (c) that entry to the premises will not be granted unless a warrant is produced;
  - (d) that the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.
- (4) Subsection (1)(a)(i) shall be omitted in the application of this section to Northern Ireland.

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**Marginal Citations**

**M13** 1959 c. 37.

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