



# Criminal Justice Act 1988

## 1988 CHAPTER 33

### PART XI

#### MISCELLANEOUS

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

#### **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>M1</sup>Firearms Act 1968; and
  - (b) crossbows.
- (3) <sup>F1</sup>.....
- (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>M2</sup>Customs and Excise Management Act 1979 (improper importation),  
to [<sup>F2</sup>show] 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

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*Status: Point in time view as at 01/04/2008. This version of this provision has been superseded.*

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“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>M3</sup>Visiting Forces Act 1952; or
- (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>M4</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 <sup>F2</sup>show] 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 <sup>F2</sup>show] 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.
- <sup>F3</sup>(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

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- (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.]
- [<sup>F4</sup>(11A) It shall be a defence for a person charged in respect of 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 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 (within the meaning of Part 1 of the Copyright, Designs and Patents Act 1988 – see section 5B of that Act);
  - (c) the production of television programmes (within the meaning of the Communications Act 2003 – see section 405(1) of that Act).
- (11C) For the purposes of this section a person shall be taken to have shown a matter specified in subsection (5), (8), (9) or (11A) if—
- (a) sufficient evidence of that matter is adduced to raise an issue with respect to it; and
  - (b) the contrary is not proved beyond a reasonable doubt.
- (11D) The Secretary of State may by order made by statutory instrument—
- (a) provide for exceptions and exemptions from the offence under subsection (1) above or from the prohibition in subsection (4) above; and

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- (b) provide for it to be a defence in proceedings for such an offence, or for an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979, to show the matters specified or described in the order.
- (11E) 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 approved by a resolution of each House.]
- (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>M5</sup>Firearms Act 1968 shall be construed as a reference to the <sup>M6</sup>Firearms (Northern Ireland) Order [<sup>F5</sup>2004] .

#### Textual Amendments

- F1** S. 141(3) repealed (S.) (1.11.2007) by [Custodial Sentences and Weapons \(Scotland\) Act 2007 \(asp 17\)](#), ss. 66(2), 67, [Sch. 5](#); S.S.I. 2007/431, [art. 3](#) Sch. and s. 141(3) repealed (E.W.N.I.) (1.4.2008) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 65, 66(2), [Sch. 5](#); S.I. 2008/791, arts. 2(e)
- F2** Word in s. 141(5)(8)(9) substituted (S.) (1.11.2007) by [Custodial Sentences and Weapons \(Scotland\) Act 2007 \(asp 17\)](#), [s. 60\(1\)\(a\)](#); S.S.I. 2007/431, [art. 3](#), [Sch.](#) and the same word in s. 141(5)(8)(9) substituted (E.W.N.I.) (6.4.2008) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 43(3), 51, 66(2), [Sch. 2](#) para. 11(2); S.I. 2008/791, [art. 3\(a\)\(c\)](#)
- F3** S. 141(11A)-(11J) inserted (S.) (1.11.2007 for purpose of inserting subsections (11F) to (11J) and otherwise prosp. for inserting (11A) to (11E)) by [Custodial Sentences and Weapons \(Scotland\) Act 2007 \(asp 17\)](#), [ss. 60\(2\)](#), 67; S.S.I. 2007/431, [art. 3](#), [Sch.](#)
- F4** S. 141(11A)-(11E) inserted (E.W.N.I.) (1.4.2008 for purpose of inserting (11D) and (11E) and 6.4.2008 in so far as not already in force) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 43(4), 51, 66(2), [Sch. 2 para. 11\(3\)](#); S.I. 2008/791, arts. 2(c), [3\(c\)](#)
- 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

- M1** 1968 c. 27.  
**M2** 1979 c. 2.  
**M3** 1952 c. 67.  
**M4** 1964 c. 29.  
**M5** 1968 c. 27.  
**M6** S.I. 1981/155 (N.I. 2).

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