



Violent Crime Reduction Act 2006

2006 CHAPTER 38

PART 2

WEAPONS ETC.

Knives, etc.

42 Increase of maximum sentences for offences of having knives etc.

- (1) In each of the following provisions of the Criminal Justice Act 1988 (c. 33), for “two” substitute “four”—
 - (a) section 139(6)(b) (maximum penalty for offence of having knife etc. in public place);
 - (b) section 139A(5)(a)(ii) (maximum penalty for offence of having knife etc. or offensive weapon on school premises).
- (2) This section applies only to offences committed after the commencement of this section.

43 Sale etc. of knives and other weapons

- (1) The Criminal Justice Act 1988 is amended as follows.
- (2) In section 141A(1) (prohibition on sale of knives etc. to persons under sixteen), for “sixteen” substitute “eighteen”.
- (3) In subsections (5), (8) and (9) of section 141 (defences relating to museums and galleries to offence of manufacture, sale etc. of prescribed weapons), for “prove” substitute “show”.
- (4) After subsection (11) of that section insert—
 - “(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
- (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.”

- (5) The defence in section 141(11A) is not available in relation to so much of any charge as relates to conduct taking place before the commencement of this section.

44 Sale etc. of crossbows

- (1) In the Crossbows Act 1987 (c. 32), in the provisions mentioned in subsection (2), for “seventeen”, in each place it occurs, substitute “eighteen”.

(2) The provisions are—

- (a) section 1 (sale and letting on hire);
- (b) section 2 (purchase and hiring);
- (c) section 3 (possession).

45 Power of members of staff to search school pupils for weapons

After section 550A of the Education Act 1996 (c. 56) insert—

“550AA Power of members of staff to search pupils for weapons

- (1) A member of the staff of a school who has reasonable grounds for suspecting that a pupil at the school may have with him or in his possessions—
 - (a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc.), or
 - (b) an offensive weapon (within the meaning of the Prevention of Crime Act 1953),may search that pupil or his possessions for such articles and weapons.
- (2) A search under this section may be carried out only where—
 - (a) the member of the staff and the pupil are on the premises of the school; or
 - (b) they are elsewhere and the member of the staff has lawful control or charge of the pupil.
- (3) A person may carry out a search under this section only if—
 - (a) he is the head teacher of the school; or
 - (b) he has been authorised by the head teacher to carry out the search.
- (4) Nothing in any enactment, instrument or agreement shall be construed as authorising a head teacher of a school to require a person other than a member of the security staff of the school to carry out a search under this section.
- (5) A person who carries out a search of a pupil under this section—
 - (a) may not require the pupil to remove any clothing other than outer clothing;
 - (b) must be of the same sex as the pupil; and
 - (c) may carry out the search only in the presence of another member of the staff who is also of the same sex as the pupil.
- (6) A pupil’s possessions may not be searched under this section except in his presence and in the presence of another member of the staff.
- (7) If, in the course of a search under this section, the person carrying out the search finds—
 - (a) anything which he has reasonable grounds for suspecting falls within subsection (1)(a) or (b), or
 - (b) any other thing which he has reasonable grounds for suspecting is evidence in relation to an offence,he may seize and retain it.
- (8) A person who exercises a power under this section may use such force as is reasonable in the circumstances for exercising that power.
- (9) A person who seizes anything under subsection (7) must deliver it to a police constable as soon as reasonably practicable.
- (10) The Police (Property) Act 1897 (disposal of property in the possession of the police) shall apply to property which has come into the possession of a police constable under this section as it applies to property which has come into the possession of the police in the circumstances mentioned in that Act.

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

- (11) An authorisation for the purposes of subsection (3)(b) may be given either in relation to a particular search or generally in relation to searches under this section or to a particular description of such searches.
- (12) In this section—
- ‘member of the staff’, in relation to a school, means—
- (a) any teacher who works at the school; and
 - (b) any other person who, with the authority of the head teacher, has lawful control or charge of pupils for whom education is being provided at the school;
- ‘member of the security staff’ means a member of the staff whose work at the school consists wholly or mainly of security-related activities;
- ‘outer clothing’ means—
- (a) any item of clothing that is being worn otherwise than wholly next to the skin or immediately over a garment being worn as underwear; or
 - (b) a hat, shoes, boots, gloves or a scarf;
- ‘possessions’, in relation to a pupil of a school, includes any goods over which he has or appears to have control.
- (13) The powers conferred by this section are in addition to any powers exercisable by the member of the staff in question apart from this section and are not to be construed as restricting such powers.”

46 Power to search further education students for weapons

After section 85A of the Further and Higher Education Act 1992 (c. 13) insert—

“85B Power to search further education students for weapons

- (1) A member of staff of an institution within the further education sector who has reasonable grounds for suspecting that a student at the institution may have with him or in his possessions—
- (a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc.), or
 - (b) an offensive weapon (within the meaning of the Prevention of Crime Act 1953),
- may search that student or his possessions for such articles and weapons.
- (2) A search under this section may be carried out only where—
- (a) the member of staff and the student are on the premises of the institution; or
 - (b) they are elsewhere and the member of staff has lawful control or charge of the student.
- (3) A person may carry out a search under this section only if—
- (a) he is the principal of the institution; or
 - (b) he has been authorised by the principal to carry out the search.
- (4) A person who carries out a search of a student under this section—

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

- (a) may not require the student to remove any clothing other than outer clothing;
 - (b) must be of the same sex as the student; and
 - (c) may carry out the search only in the presence of another member of staff who is also of the same sex as the student.
- (5) A student's possessions may not be searched under this section except in his presence and in the presence of another member of staff.
- (6) If, in the course of a search under this section, the person carrying out the search finds—
 - (a) anything which he has reasonable grounds for suspecting falls within subsection (1)(a) or (b), or
 - (b) any other thing which he has reasonable grounds for suspecting is evidence in relation to an offence,he may seize and retain it.
- (7) A person who exercises a power under this section may use such force as is reasonable in the circumstances for exercising that power.
- (8) A person who seizes anything under subsection (6) must deliver it to a police constable as soon as reasonably practicable.
- (9) The Police (Property) Act 1897 (disposal of property in the possession of the police) shall apply to property which has come into the possession of a police constable under this section as it applies to property which has come into the possession of the police in the circumstances mentioned in that Act.
- (10) An authorisation for the purposes of subsection (3)(b) may be given either in relation to a particular search or generally in relation to searches under this section or to a particular description of such searches.
- (11) In this section—
 - 'member of staff', in relation to an institution within the further education sector, means any person who works at that institution whether or not as its employee;
 - 'outer clothing' means—
 - (a) any item of clothing that is being worn otherwise than wholly next to the skin or immediately over a garment being worn as underwear; or
 - (b) a hat, shoes, boots, gloves or a scarf;
 - 'possessions', in relation to a student of an institution within the further education sector, includes any goods over which he has or appears to have control.
- (12) The powers conferred by this section are in addition to any powers exercisable by the member of staff in question apart from this section and are not to be construed as restricting such powers."

47 Power to search persons in attendance centres for weapons

- (1) A member of staff of an attendance centre who has reasonable grounds for suspecting that a relevant person may have with him or in his possessions—

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

- (a) an article to which section 139 of the Criminal Justice Act 1988 (c. 33) applies (knives and blades etc.), or
- (b) an offensive weapon (within the meaning of the Prevention of Crime Act 1953 (c. 14)),

may search the relevant person or his possessions for such articles and weapons.

- (2) A search under this section may be carried out only where the member of staff and the relevant person are on the premises of the attendance centre.
- (3) A person may carry out a search under this section only if—
 - (a) he is the officer in charge of the attendance centre; or
 - (b) he has been authorised by the officer in charge to carry out the search.
- (4) A person who carries out a search of a relevant person under this section—
 - (a) may not require the relevant person to remove any clothing other than outer clothing;
 - (b) must be of the same sex as the relevant person; and
 - (c) may carry out the search only in the presence of another member of staff who is also of the same sex as the relevant person.
- (5) A relevant person’s possessions may not be searched under this section except in his presence and in the presence of another member of staff.
- (6) If, in the course of a search under this section, the person carrying out the search finds—
 - (a) anything which he has reasonable grounds for suspecting falls within subsection (1)(a) or (b), or
 - (b) any other thing which he has reasonable grounds for suspecting is evidence in relation to an offence,
 he may seize and retain it.
- (7) A person who exercises a power under this section may use such force as is reasonable in the circumstances for exercising that power.
- (8) A person who seizes anything under subsection (6) must deliver it to a police constable as soon as reasonably practicable.
- (9) The Police (Property) Act 1897 (c. 30) (disposal of property in the possession of the police) shall apply to property which has come into the possession of a police constable under this section as it applies to property which has come into the possession of the police in the circumstances mentioned in that Act.
- (10) An authorisation for the purposes of subsection (3)(b) may be given either in relation to a particular search or generally in relation to searches under this section or to a particular description of such searches.
- (11) In this section—
 - “attendance centre” has the same meaning as in Part 12 of the Criminal Justice Act 2003 (c. 44) (see section 221 of that Act);
 - “officer in charge”, in relation to an attendance centre, means the member of staff for the time being in charge of that centre;
 - “outer clothing” means—

- (a) any item of clothing that is being worn otherwise than wholly next to the skin or immediately over a garment being worn as underwear; or
 - (b) a hat, shoes, boots, gloves or a scarf;
- “possessions”, in relation to a person, includes any goods over which he has or appears to have control;
- “relevant person”, in relation to an attendance centre, means a person who is required to attend at that centre by virtue of—
- (a) a relevant order (within the meaning of section 196 of the Criminal Justice Act 2003 (c. 44)); or
 - (b) an attendance centre order under section 60 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).
- (12) The powers conferred by this section are in addition to any powers exercisable by the member of staff of an attendance centre in question apart from this section and are not to be construed as restricting such powers.

48 Amendment of police power to search schools etc. for weapons

In section 139B of the Criminal Justice Act 1988 (c. 33) (power of entry to search for knives etc. and offensive weapons), in subsection (1) for “believing” substitute “suspecting”.