



# Offender Management Act 2007

## 2007 CHAPTER 21

### PART 2

#### PRISONS

##### *Offences relating to prison security*

## 22 Conveyance of prohibited articles into or out of prison

(1) For section 40 of the Prison Act 1952 there is substituted—

### **“40A Sections 40B and 40C: classification of articles**

- (1) This section defines the categories of articles which are referred to in sections 40B and 40C.
- (2) A List A article is any article or substance in the following list (“List A”)—
  - (a) a controlled drug (as defined for the purposes of the Misuse of Drugs Act 1971);
  - (b) an explosive;
  - (c) any firearm or ammunition (as defined in section 57 of the Firearms Act 1968);
  - (d) any other offensive weapon (as defined in section 1(9) of the Police and Criminal Evidence Act 1984).
- (3) A List B article is any article or substance in the following list (“List B”)—
  - (a) alcohol (as defined for the purposes of the Licensing Act 2003);
  - (b) a mobile telephone;
  - (c) a camera;
  - (d) a sound-recording device.
- (4) In List B—

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“camera” includes any device by means of which a photograph (as defined in section 40E) can be produced;

“sound-recording device” includes any device by means of which a sound-recording (as defined in section 40E) can be made.

- (5) The reference in paragraph (b), (c) or (d) of List B to a device of any description includes a reference to—
- (a) a component part of a device of that description; or
  - (b) an article designed or adapted for use with a device of that description (including any disk, film or other separate article on which images, sounds or information may be recorded).
- (6) A List C article is any article or substance prescribed for the purposes of this subsection by prison rules.
- (7) The Secretary of State may by order amend this section for the purpose of—
- (a) adding an entry to List A or List B;
  - (b) repealing or modifying any entry for the time being included in List A or List B;
  - (c) adding, repealing or modifying any provision for the interpretation of any such entry.

#### **40B Conveyance etc. of List A articles into or out of prison**

- (1) A person who, without authorisation—
- (a) brings, throws or otherwise conveys a List A article into or out of a prison,
  - (b) causes another person to bring, throw or otherwise convey a List A article into or out of a prison,
  - (c) leaves a List A article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
  - (d) knowing a person to be a prisoner, gives a List A article to him,
- is guilty of an offence.
- (2) In this section “authorisation” means authorisation given for the purposes of this section—
- (a) in relation to all prisons or prisons of a specified description, by prison rules or by the Secretary of State; or
  - (b) in relation to a particular prison, by the Secretary of State or by the governor or director of the prison.

In paragraph (a) “specified” means specified in the authorisation.

- (3) Authorisation may be given to specified persons or persons of a specified description—
- (a) in relation to specified articles or articles of a specified description;
  - (b) in relation to specified acts or acts of a specified description; or
  - (c) on such other terms as may be specified.

In this subsection “specified” means specified in the authorisation.

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- (4) Authorisation given by the Secretary of State otherwise than in writing shall be recorded in writing as soon as is reasonably practicable after being given.
- (5) Authorisation given by the governor or director of a prison shall—
  - (a) be given in writing; and
  - (b) specify the purpose for which it is given.
- (6) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding ten years or to a fine (or both).

#### **40C Conveyance etc. of List B or C articles into or out of prison**

- (1) A person who, without authorisation—
  - (a) brings, throws or otherwise conveys a List B article into or out of a prison,
  - (b) causes another person to bring, throw or otherwise convey a List B article into or out of a prison,
  - (c) leaves a List B article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
  - (d) knowing a person to be a prisoner, gives a List B article to him,is guilty of an offence.
- (2) A person who, without authorisation—
  - (a) brings, throws or otherwise conveys a List C article into a prison intending it to come into the possession of a prisoner,
  - (b) causes another person to bring, throw or otherwise convey a List C article into a prison intending it to come into the possession of a prisoner,
  - (c) brings, throws or otherwise conveys a List C article out of a prison on behalf of a prisoner,
  - (d) causes another person to bring, throw or otherwise convey a List C article out of a prison on behalf of a prisoner,
  - (e) leaves a List C article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
  - (f) while inside a prison, gives a List C article to a prisoner,is guilty of an offence.
- (3) A person who attempts to commit an offence under subsection (2) is guilty of that offence.
- (4) In proceedings for an offence under this section it is a defence for the accused to show that—
  - (a) he reasonably believed that he had authorisation to do the act in respect of which the proceedings are brought, or
  - (b) in all the circumstances there was an overriding public interest which justified the doing of that act.
- (5) A person guilty of an offence under subsection (1) is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine (or both);

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- (b) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both).
  - (6) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
  - (7) In this section “authorisation” means authorisation given for the purposes of this section; and subsections (1) to (3) of section 40E apply in relation to authorisations so given as they apply to authorisations given for the purposes of section 40D.”
- (2) In section 52 of the Prison Act 1952 (c. 52) (exercise of powers to make orders etc)—
- (a) in subsection (1) for “or section thirty-seven” there is substituted “, 37 or 40A”; and
  - (b) after subsection (2) there is inserted—
    - “(2A) A statutory instrument containing an order under section 40A(7) which relates to List A (whether or not it also relates to List B) shall not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
    - (2B) A statutory instrument containing an order under section 40A(7) which relates only to List B is subject to annulment in pursuance of a resolution of either House of Parliament.”