



# Serious Crime Act 2015

## 2015 CHAPTER 9

### PART 6

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### **78 Knives and offensive weapons in prisons**

After section 40C of the Prison Act 1952 insert—

##### **“40CA Unauthorised possession in prison of knife or offensive weapon**

- (1) A person who, without authorisation, is in possession of an article specified in subsection (2) inside a prison is guilty of an offence.
- (2) The articles referred to in subsection (1) are—
  - (a) any article that has a blade or is sharply pointed;
  - (b) any other offensive weapon (as defined in section 1(9) of the Police and Criminal Evidence Act 1984).
- (3) 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 be in possession of the article in question, or
  - (b) in all the circumstances there was an overriding public interest which justified his being in possession of the article.
- (4) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding four years or to a fine (or both);
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine (or both).

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- (5) 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.”

**Commencement Information**

**I1** S. 78 in force at 1.6.2015 by S.I. 2015/820, reg. 3(o)

**79 Throwing articles into prisons**

After section 40CA of the Prison Act 1952 (inserted by section 78 above) insert—

**“40CB Throwing articles into prison**

- (1) A person who, without authorisation, throws any article or substance into a prison is guilty of an offence.
- (2) For the purposes of subsection (1)—
- (a) the reference to an article or substance does not include a reference to a List A article, a List B article or a List C article (as defined by section 40A);
  - (b) the reference to “throwing” an article or substance into a prison includes a reference to doing anything from outside the prison that results in the article or substance being projected or conveyed over or through a boundary of the prison so as to land inside the prison.
- (3) 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.
- (4) 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);
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine (or both).
- (5) 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.”

**Commencement Information**

**I2** S. 79 in force at 10.11.2015 by S.I. 2015/1809, reg. 3

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## **80 Prevention or restriction of use of communication devices by prisoners etc**

- (1) Regulations may make provision conferring power on a court to make a telecommunications restriction order.
- (2) “Telecommunications restriction order” means an order requiring a communications provider to take whatever action the order specifies for the purpose of preventing or restricting the use of communication devices by persons detained in custodial institutions.
- (3) Regulations under this section must—
  - (a) specify who may apply for telecommunications restriction orders;
  - (b) make provision about giving notice of applications;
  - (c) make provision conferring rights on persons to make representations;
  - (d) specify the matters about which the court must be satisfied if it is to make an order;
  - (e) make provision about the duration of orders (which may include provision for orders of indefinite duration);
  - (f) make provision about variation (including extension) and discharge of orders;
  - (g) make provision about appeals.
- (4) Regulations under this section may—
  - (a) make provision for a telecommunications restriction order to specify that a requirement of the order is not to apply in particular circumstances;
  - (b) make provision authorising a court to include in an order a requirement for the person applying for the order to pay any or all of the costs of complying with it;
  - (c) make provision about time limits for complying with orders;
  - (d) make provision about enforcement of orders (which may include provision creating offences);
  - (e) make provision about costs (or, in Scotland, expenses) in respect of legal proceedings;
  - (f) make different provision for different purposes;
  - (g) make incidental, consequential, supplementary or transitional provision, including provision applying any enactment (with or without modifications).
- (5) The power to make regulations under this section is exercisable—
  - (a) in relation to England and Wales, by statutory instrument made by the Secretary of State;
  - (b) in relation to Scotland, by the Scottish Ministers.
- (6) A statutory instrument (other than a Scottish statutory instrument) containing regulations under this section is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (7) Regulations made by the Scottish Ministers under this section are subject to the affirmative procedure.
- (8) In this section—

“communication device” means an item specified in section 1(3) of the Prisons (Interference with Wireless Telegraphy) Act 2012 (mobile telephones etc);

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“communications provider” means a person providing a service that consists in the provision of access to, and of facilities for making use of, any telecommunication system (whether or not one provided by that person);

“court” means—

- (a) in relation to England and Wales, the county court;
- (b) in relation to Scotland, the sheriff;

“custodial institution” means—

- (a) in relation to England and Wales, a prison, young offender institution, secure training centre or secure college;
- (b) in relation to Scotland, a prison or young offenders institution;

“enactment” includes—

- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
- (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;

“telecommunication system” means any system (including the apparatus comprised in it) that exists (whether wholly or partly in the United Kingdom or elsewhere) for the purpose of facilitating the transmission of communications by any means involving the use of electrical or electro-magnetic energy.

### **81 Preparation or training abroad for terrorism**

In section 17 of the Terrorism Act 2006 (commission of offences abroad), in subsection (2)(b), after “an offence under” insert “section 5 or 6 or”.

### **82 Approval of draft decisions under Article 352 of TFEU relating to serious crime**

- (1) This section has effect for the purposes of section 8 of the European Union Act 2011 (decisions under Article 352 of TFEU).
- (2) The following draft decisions of the Council of the European Union under Article 352 of TFEU are approved—
  - (a) the draft decision to repeal Council Decision [2007/124/EC](#), Euratom establishing for the period 2007 to 2013, as part of General Programme on Security and Safeguarding Liberties, the Specific Programme “Prevention, Preparedness and Consequence Management of Terrorism and other Security related risks” (document number 15187/13);
  - (b) the draft decision to adopt the Council Regulation extending to the non-participating member States the application of [Regulation \(EU\) No 331/2014](#) establishing an exchange, assistance and training programme for the protection of the euro against counterfeiting (the “Pericles 2020” programme) (document number 16616/13).
- (3) In this section “TFEU” means the Treaty on the Functioning of the European Union.

### **83 Codes of practice about investigatory powers: journalistic sources**

In section 71 of the Regulation of Investigatory Powers Act 2000 (issue and revision of codes of practice), after subsection (2) insert—

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- “(2A) A code of practice under subsection (1) that relates (expressly or otherwise) to the exercise and performance, in connection with the prevention or detection of serious crime, of powers and duties conferred or imposed by or under Part 1 of this Act—
- (a) shall include provision designed to protect the public interest in the confidentiality of journalistic sources;
  - (b) shall not be issued unless the Secretary of State has first consulted the Interception of Communications Commissioner and considered any relevant report made to the Prime Minister under section 58.”

#### **84 Termination of pregnancy on grounds of sex of foetus**

- (1) The Secretary of State shall arrange for an assessment to be made of the evidence of termination of pregnancy on the grounds of the sex of the foetus in England, Wales and Scotland.
- (2) The arrangements made under subsection (1) shall be such as to enable publication of the assessment by the Secretary of State within 6 months of the date of Royal Assent to this Act.
- (3) The Secretary of State shall consider the assessment made under subsection (1) and—
  - (a) determine and publish a strategic plan to tackle substantiated concerns identified in the assessment made under subsection (1); or
  - (b) publish a statement and explanation in relation to why a plan under subsection (3)(a) is not required.
- (4) Any strategic plan under subsection (3)(a) must include, but need not be limited to, steps—
  - (a) to promote change in the social and cultural patterns of behaviour with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women and which may amount to pressure to seek a termination on the grounds of the sex of the foetus;
  - (b) to ensure best practice exists in identifying women being coerced or pressured into seeking a termination on the grounds of the sex of the foetus, or at risk of being so, and in the provision of protection and support to potential victims; and
  - (c) to promote guidance to service providers, health professionals and other stakeholders.
- (5) The Secretary of State must lay a copy of the plan, determined under subsection (3) (a), before each House of Parliament within 6 months of the publication date of the assessment under subsection (2).

#### **Commencement Information**

**I3** S. 84 in force at 3.5.2015 by S.I. 2015/820, reg. 2(n)

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### *General*

## **85 Minor and consequential amendments**

- (1) Schedule 4 (minor and consequential amendments) has effect.
- (2) The Secretary of State may by regulations make provision that is consequential on any provision of this Act.
- (3) The power to make regulations under this section—
  - (a) is exercisable by statutory instrument;
  - (b) includes power to make transitional, transitory or saving provision;
  - (c) may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under primary legislation passed before this Act or in the same Session.
- (4) Before making regulations under this section the Secretary of State must—
  - (a) if the regulations contain provision that would fall within the legislative competence of the Scottish Parliament if included in an Act of that Parliament, consult the Scottish Ministers;
  - (b) if the regulations contain provision that would fall within the legislative competence of the Northern Ireland Assembly if included in an Act of that Assembly, consult the Department of Justice in Northern Ireland.
- (5) A statutory instrument containing regulations under this section that amend, repeal, revoke or otherwise modify any provision of primary legislation is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section “primary legislation” means—
  - (a) an Act of Parliament;
  - (b) an Act of the Scottish Parliament;
  - (c) a Measure or Act of the National Assembly for Wales;
  - (d) Northern Ireland legislation.

#### **Commencement Information**

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| <b>I4</b>  | S. 85 partly in force at Royal Assent; s. 85(1) in force for specified purposes at Royal Assent; s. 85(2)-(7) wholly in force at Royal Assent, see s. 88(1)(2)(c)(3)(b)(5)(b) |
| <b>I5</b>  | S. 85(1) in force at 3.5.2015 for N.I. for specified purposes by <a href="#">S.R. 2015/190, reg. 2</a>  |
| <b>I6</b>  | S. 85(1) in force at 3.5.2015 for specified purposes by <a href="#">S.I. 2015/820, reg. 2(o)</a>  |
| <b>I7</b>  | <a href="#">S. 85(1)</a> in force at 1.6.2015 for specified purposes by <a href="#">S.I. 2015/820, reg. 3(p)</a>  |
| <b>I8</b>  | <a href="#">S. 85(1)</a> in force at 1.6.2015 for specified purposes by <a href="#">S.R. 2015/190, reg. 3(1)(k)</a>   |
| <b>I9</b>  | <a href="#">S. 85(1)</a> in force at 17.7.2015 for specified purposes by <a href="#">S.I. 2015/1428, art. 2(b)</a>  |
| <b>I10</b> | <a href="#">S. 85(1)</a> in force at 31.10.2015 for specified purposes by <a href="#">S.I. 2015/1809, reg. 2(c)</a>   |

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## **86 Transitional and saving provisions**

- (1) An order under section 13A of the Proceeds of Crime Act 2002 (inserted by section 7) may be made in respect of any confiscation order (within the meaning of Part 2 of that Act) that is made on or after the day on which section 7 comes into force.
- (2) The amendment made by subsection (3) of section 10 has effect in relation to a default of payment of a sum payable under a confiscation order only if the default occurs on or after the date on which that subsection comes into force.
- (3) An order under section 97B(2) of the Proceeds of Crime Act 2002 (inserted by section 16) may be made in respect of any confiscation order (within the meaning of Part 3 of that Act) that is made on or after the day on which section 16 comes into force.
- (4) An order under section 163A of the Proceeds of Crime Act 2002 (inserted by section 29) may be made in respect of any confiscation order (within the meaning of Part 4 of that Act) that is made on or after the day on which section 29 comes into force.
- (5) An offence is not committed under section 3A(3) of the Computer Misuse Act 1990 by virtue of the amendment made by section 42 unless every act or other event proof of which is required for conviction of the offence takes place after section 42 comes into force.
- (6) The amendments made by paragraph 10 of Schedule 4 apply, in relation to any offence of conspiracy to commit an offence under the Computer Misuse Act 1990 or of attempting to commit such an offence, only where every act or other event proof of which is required for conviction of the conspiracy or attempt offence takes place after section 43 comes into force.
- (7) The repeals by this Act of—
  - (a) section 76 of the Serious Organised Crime and Police Act 2005 (“the 2005 Act”), and
  - (b) sections 79 to 81 of the 2005 Act so far as they extend to England and Wales, do not apply in the case of a financial reporting order made before section 50(1) (a) above comes into force.
- (8) The repeals by this Act of—
  - (a) section 77 of the 2005 Act, and
  - (b) sections 79 to 81 of the 2005 Act so far as they extend to Scotland, do not apply in the case of a financial reporting order made before section 50(1) (b) above comes into force.
- (9) The repeals by this Act of—
  - (a) section 78 of the 2005 Act, and
  - (b) sections 79 to 81 of the 2005 Act so far as they extend to Northern Ireland, do not apply in the case of a financial reporting order made before section 50(1) (c) above comes into force.
- (10) The amendments made by a section listed below apply only in cases where every act or other event proof of which is required for conviction of the offence in question takes place after the provision comes into force—
  - (a) section 43;
  - (b) section 66;
  - (c) section 70;

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- (d) section 81.
- (11) Subsection (7) of section 68 and paragraph 2 of Schedule 4 do not apply in the case of an offence proceedings for which are started before the commencement of that subsection.
- (12) The amendment made by section 83 applies only to a code of practice that is issued or revised on or after the day on which this Act is passed.
- (13) Before the day on which section 109 of the Courts Reform (Scotland) Act 2014 (asp 18) (abolition of appeal from a sheriff to the sheriff principal) comes into force—
- (a) the reference to the Sheriff Appeal Court in subsection (3)(b) of section 62 is to be read as a reference to the sheriff principal;
  - (b) the references to the court in subsections (5) to (7) of that section are to be read as including references to the sheriff principal.
- (14) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, a reference to 12 months in the following provisions is to be read as a reference to 6 months—
- (a) in the Sexual Offences Act 2003, subsection (3)(a) of the section 15A inserted by section 67 above;
  - (b) section 69(3)(a);
  - (c) in the Female Genital Mutilation Act 2003, paragraph (b) of the subsection (2) inserted in section 5 by section 72(4)(b) above;
  - (d) paragraph 4(5)(b) of the Schedule inserted in that Act by section 73(2) above;
  - (e) section 76(11)(b);
  - (f) in the Prison Act 1952, subsection (4)(b) of the section 40CA inserted by section 78 above;
  - (g) in that Act, subsection (4)(b) of the section 40CB inserted by section 79 above.
- (15) In relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force—
- (a) a reference to a fine in the following provisions is to be read as a reference to a fine not exceeding the statutory maximum—
    - (i) in the Sexual Offences Act 2003, subsection (3)(a) of the section 15A inserted by section 67 above;
    - (ii) section 69(3)(a);
    - (iii) in the Female Genital Mutilation Act 2003, paragraph (b) of the subsection (2) inserted in section 5 by section 72(4)(b) above;
    - (iv) paragraph 4(5)(b) of the Schedule inserted in that Act by section 73(2) above;
    - (v) section 76(11)(b) above;
    - (vi) in the Prison Act 1952, subsection (4)(b) of the section 40CA inserted by section 78 above;
    - (vii) in that Act, subsection (4)(b) of the section 40CB inserted by section 79 above;
  - (b) the reference to a fine in paragraph 2(2)(a) of Schedule 1 to the Female Genital Mutilation Act 2003, inserted in that Act by section 71(2) above, is to be read as a reference to a fine not exceeding level 5 on the standard scale.



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- (16) The reference to an offence under section 1, 2 or 3 of the Female Genital Mutilation Act 2003 in section 3A (8) of that Act does not include such an offence committed before the coming into force of section 72 above (which inserts section 3A in that Act).
- (17) In proceedings under section 3A of that Act, a defence under subsection (5)(b) of that section may not be negated by reference to steps that the defendant could have taken (but did not) before the coming into force of section 72 above.

## **87 Extent**

- (1) The following provisions extend to England and Wales only—
- (a) Chapter 1 of Part 1;
  - (b) section 45;
  - (c) section 51;
  - (d) sections 66 to 68;
  - (e) sections 74 to 79.
- (2) Section 80 extends to England and Wales and Scotland (but not Northern Ireland).
- (3) The following provisions extend to England and Wales and Northern Ireland (but not Scotland)—
- (a) section 38(2);
  - (b) section 40;
  - (c) section 69 and Schedule 3;
  - (d) section 70(1);
  - (e) sections 71 to 73.
- (4) The following provisions extend to Scotland only—
- (a) sections 15 to 22;
  - (b) section 38(3);
  - (c) section 43(6) and (7);
  - (d) section 70(2).
- (5) Chapter 3 of Part 1 extends to Northern Ireland only.
- (6) An amendment or repeal made by Schedule 4 has the same extent as the relevant part of the Act amended or repealed.
- (7) The other provisions of this Act extend to England and Wales, Scotland and Northern Ireland.

## **88 Commencement**

- (1) This Act, except for the provisions referred to in subsections (2) to (5), comes into force on whatever day or days the Secretary of State appoints by regulations made by statutory instrument.
- (2) The following provisions come into force on whatever day or days the Scottish Ministers appoint by regulations after consulting the Secretary of State—
- (a) sections 15 to 22;
  - (b) section 38(3);

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- (c) paragraphs 16 and 35 to 45 of Schedule 4 (and section 85(1) so far as relating to those paragraphs).
- (3) The following provisions come into force on whatever day or days the Department of Justice in Northern Ireland appoints by regulations after consulting the Secretary of State—
- (a) Chapter 3 of Part 1;
  - (b) paragraphs 4, 46 to 51 and 66(4) of Schedule 4 (and section 85(1) so far as relating to those paragraphs).
- (4) Sections 70 to 72 come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (5) The following provisions come into force on the day on which this Act is passed—
- (a) section 80;
  - (b) section 81 and paragraph 74 of Schedule 4 (and section 85(1) so far as relating to that paragraph);
  - (c) section 82;
  - (d) section 83;
  - (e) section 85(2) to (7);
  - (f) sections 86 to 89.
- (6) No regulations may be made under subsection (1) bringing into force any of the following provisions, so far as they extend to Scotland, unless the Secretary of State has consulted the Scottish Ministers—
- (a) section 23;
  - (b) section 38(1);
  - (c) Part 2;
  - (d) section 46 and Schedule 1;
  - (e) sections 47 to 50.
- (7) No regulations may be made under subsection (1) bringing into force any of the following provisions, so far as they extend to Northern Ireland, unless the Secretary of State has consulted the Department of Justice in Northern Ireland—
- (a) section 38(1) and (2);
  - (b) section 40;
  - (c) sections 47 to 50;
  - (d) section 69 and Schedule 3;
  - (e) section 73.
- (8) Consultation for the purposes of subsection (2), (3), (6) or (7) may be, or include, consultation before the day on which this Act is passed.
- (9) A power to make regulations under this section includes powers to make saving, transitional or transitory provision.
- (10) The power of the Department of Justice in Northern Ireland to make regulations under subsection (3) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

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**89 Short title**

This Act may be cited as the Serious Crime Act 2015.

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