



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).

Status: Point in time view as at 04/07/2018.

Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2015, Cross Heading: Miscellaneous. (See end of Document for details)

- (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](#)

Status: Point in time view as at 04/07/2018.

Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2015, Cross Heading: Miscellaneous. (See end of Document for details)

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.

[^{F1}80A Prevention or restriction of use of communication devices for drug dealing

- (1) Regulations may make provision conferring power on a court to make a drug dealing telecommunications restriction order.
- (2) “Drug dealing 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 in connection with drug dealing offences.
- (3) Without limiting the action that may be specified, it includes—
 - (a) action that relates to a specified device;
 - (b) action that relates to a specified phone number or something else that may be used with a device.
- (4) In this section “drug dealing offence” means an offence under section 4(3) of the Misuse of Drugs Act 1971 or section 5 of the Psychoactive Substances Act 2016; and a communication device is used in connection with a drug dealing offence if it is used by a person (“the user”) in the course of—
 - (a) the user committing a drug dealing offence,
 - (b) the user facilitating the commission by the user or another person of a drug dealing offence, or
 - (c) conduct of the user that is likely to facilitate the commission by the user or another person of a drug dealing offence (whether or not an offence is committed).
- (5) Regulations under this section must provide for drug dealing telecommunications restriction orders to be made only on the application of—
 - (a) the Director General or Deputy Director General of the National Crime Agency, or
 - (b) a police officer of the rank of superintendent or above.

Status: Point in time view as at 04/07/2018.

Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2015, Cross Heading: Miscellaneous. (See end of Document for details)

- (6) Regulations under this section must—
- (a) specify the matters about which the court must be satisfied if it is to make an order;
 - (b) make provision about the duration of orders (which may include provision for orders of indefinite duration);
 - (c) make provision about the giving (by a communications provider or any other person) of notice of the making of an order;
 - (d) make provision about variation (including extension) and discharge of orders;
 - (e) make provision about appeals.
- (7) Regulations under this section must provide—
- (a) for applications for drug dealing telecommunications restriction orders to be made and heard without notice of the application or hearing having been given to persons affected (or their legal representatives), subject to subsection (9)(a);
 - (b) for applications to be heard and determined in the absence of persons affected (and their legal representatives), subject to subsection (9)(b);
 - (c) for applications to be heard and determined in private.
- (8) Regulations under this section must provide for a court hearing an application or an appeal to have power to restrict disclosure of information submitted in connection with the application or appeal if satisfied that it is necessary to do so in the public interest.
- (9) Regulations under this section may—
- (a) make provision for a communications provider affected by an application to be given notice of the application or hearing;
 - (b) make provision for a communications provider affected by an application to be present or represented at the hearing and determination of the application;
 - (c) in connection with any provision under paragraph (b), make provision for a communications provider to have a right to make representations;
 - (d) make provision for a drug dealing telecommunications restriction order to specify that a requirement of the order is not to apply in particular circumstances;
 - (e) 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;
 - (f) make provision about time limits for complying with orders;
 - (g) make provision about enforcement of orders (which may include provision creating offences);
 - (h) make provision about costs (or, in Scotland, expenses) in respect of legal proceedings;
 - (i) make provision about compensation;
 - (j) make different provision for different purposes or areas;
 - (k) make incidental, consequential, supplementary or transitional provision, including provision applying any enactment (with or without modifications).
- (10) The power to make regulations under this section is exercisable by statutory instrument made by the Secretary of State.
- (11) A 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.

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(12) 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);

“communications provider” means a person providing a telecommunications service;

“court” means—

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

“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;
- (c) Northern Ireland legislation;

“telecommunications service” has the meaning given by section 261 of the Investigatory Powers Act 2016.]

Textual Amendments

F1 S. 80A inserted (27.6.2017) by [Digital Economy Act 2017 \(c. 30\)](#), ss. 107, 118(2)

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”.

^{F2}82 Approval of draft decisions under Article 352 of TFEU relating to serious crime

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Textual Amendments

F2 S. 82 repealed (4.7.2018) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 9](#) (with s. 19, [Sch. 8 para. 37](#)); [S.I. 2018/808](#), reg. 3(i)

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—

“(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;

Status: Point in time view as at 04/07/2018.

Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2015, Cross Heading: Miscellaneous. (See end of Document for details)

- (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\(n\)](#)

Status:

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Changes to legislation:

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