



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*Status: This is the original version (as it was originally enacted).*

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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.”

## **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.”

## **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);
  - “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;

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- (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—

- “(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).