



Offensive Weapons Act 2019

2019 CHAPTER 17

PART 1

CORROSIVE PRODUCTS AND SUBSTANCES

Possession of corrosive substances

6 Offence of having a corrosive substance in a public place

- (1) A person commits an offence if they have a corrosive substance with them in a public place.
- (2) It is a defence for a person charged in England and Wales or Northern Ireland with an offence under subsection (1) to prove that they had good reason or lawful authority for having the corrosive substance with them in a public place.
- (3) Without prejudice to the generality of subsection (2), it is a defence for a person charged in England and Wales or Northern Ireland with an offence under subsection (1) to prove that they had the corrosive substance with them for use at work.
- (4) It is a defence for a person charged in Scotland with an offence under subsection (1) to show that they had a reasonable excuse or lawful authority for having the corrosive substance with them in a public place.
- (5) Without prejudice to the generality of subsection (4), it is a defence for a person charged in Scotland with an offence under subsection (1) to show that they had the corrosive substance with them for use at work.
- (6) A person is to be taken to have shown a matter mentioned in subsection (4) or (5) if—
 - (a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (7) A person guilty of an offence under subsection (1) is liable—

Status: This is the original version (as it was originally enacted).

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months, to a fine or to both;
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;
 - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding the statutory maximum or to both;
 - (d) on conviction on indictment, to imprisonment for a term not exceeding 4 years, to a fine or to both.
- (8) In relation to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 (maximum sentence that may be imposed on summary conviction of offence triable either way) the reference in subsection (7)(a) to 12 months is to be read as a reference to 6 months.
- (9) In this section—
- “corrosive substance” means a substance which is capable of burning human skin by corrosion;
 - “public place”, in relation to England and Wales or Northern Ireland, includes any place to which, at the time in question, the public have or are permitted access, whether on payment or otherwise;
 - “public place”, in relation to Scotland, means any place other than premises occupied as a private dwelling (including any stair, passage, garden, yard, garage, outhouse or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling).
- (10) See—
- (a) section 7 for provisions about presumptions as to the content of containers in proceedings in Scotland;
 - (b) sections 8 and 9 for provisions requiring a court in England and Wales to impose an appropriate custodial sentence in certain cases.

7 Presumptions in proceedings in Scotland for offence under section 6

- (1) This section applies for the purposes of any trial in proceedings for an alleged offence under section 6(1).
- (2) Where—
- (a) a substance is found in a container (whether open or sealed), and
 - (b) there is on the container a description of the contents of the container,
- the substance found is to be presumed to be a substance of that description.
- (3) Subsection (4) applies where—
- (a) an open container is found,
 - (b) a substance has been poured out of, or otherwise removed from, the container,
 - (c) the container is empty or contains an amount of the substance mentioned in paragraph (b) which is insufficient to allow analysis of it, and
 - (d) the container has on it a description of its contents.
- (4) The container is to be presumed to have contained, immediately before the action mentioned in paragraph (b) of subsection (3) was taken, a substance of the description mentioned in paragraph (d) of that subsection.

- (5) At the trial, any party to the proceedings may rebut the presumption mentioned in subsection (2) or (4) by proving that, at the time the offence is alleged to have been committed, the substance in the container was not of the description on the container.
- (6) A party may lead evidence for the purpose of rebutting the presumption only if the party has, not less than 7 days before the date of the trial, given notice of the intention to do so to the other parties.

8 Appropriate custodial sentence for conviction under section 6

- (1) This section applies where—
 - (a) a person is convicted of an offence under section 6(1) by a court in England and Wales, and
 - (b) when the offence was committed, the person—
 - (i) was aged 16 or over, and
 - (ii) had at least one relevant conviction (see section 9).
- (2) The court must impose an appropriate custodial sentence (with or without a fine) unless the court is of the opinion that there are particular circumstances which—
 - (a) relate to the offence, to the previous offence or to the offender, and
 - (b) would make it unjust to do so in all the circumstances.
- (3) An “appropriate custodial sentence” is—
 - (a) in the case of a person who is aged 18 or over when convicted, a sentence of imprisonment for a term of at least 6 months;
 - (b) in the case of a person who is aged 16 or 17 when convicted, a detention and training order of at least 4 months.
- (4) In the case of a person aged 16 or 17, in considering whether it is of the opinion mentioned in subsection (2) the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933 (general considerations).
- (5) Subsection (6) applies where—
 - (a) an appropriate custodial sentence has been imposed on a person under subsection (2), and
 - (b) a relevant conviction which resulted in subsection (2) applying to that person has subsequently been set aside on appeal.
- (6) Notice of appeal against the sentence may be given at any time within the period of 28 days beginning with the day after the day on which the relevant conviction was set aside (despite anything in section 18 of the Criminal Appeal Act 1968 (initiating procedure)).
- (7) This section applies only to an offence committed on or after the day on which this section came into force.
- (8) Where an offence is found to have been committed—
 - (a) over a period of two or more days, or
 - (b) at some time during a period of two or more days,it is to be taken for the purposes of this section to have been committed on the last of those days.

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- (9) Before the coming into force of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000, the reference in subsection (3)(a) to a sentence of imprisonment, in relation to an offender under the age of 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.

9 Offence under section 6: relevant convictions

- (1) In section 8 “relevant conviction” means—
- (a) a conviction for an offence under—
 - (i) section 1 or 1A of the Prevention of Crime Act 1953 (offences relating to offensive weapons),
 - (ii) section 139, 139A or 139AA of the Criminal Justice Act 1988 (offences relating to bladed articles and offensive weapons), or
 - (iii) section 6 of this Act,
 (a “relevant offence”),
 - (b) a conviction in Scotland, Northern Ireland or a member State other than the United Kingdom for a civilian offence which would have constituted a relevant offence if committed in England and Wales at the time of that conviction,
 - (c) a conviction for an offence under section 42 of the Armed Forces Act 2006 in respect of which the corresponding offence under the law of England and Wales (within the meaning of that section) is a relevant offence,
 - (d) a conviction for an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 in respect of which the corresponding civilian offence (within the meaning of the Act in question) is a relevant offence, or
 - (e) a conviction for a member State service offence which would have constituted a relevant offence if committed in England and Wales at the time of conviction.
- (2) References in subsection (1) to a conviction for an offence are to a conviction for an offence regardless of when it was committed.
- (3) In this section—
- “civilian offence” means an offence other than—
- (a) an offence under an enactment mentioned in subsection (1)(c) or (d), or
 - (b) a member State service offence;
- “conviction” includes—
- (a) in relation to an offence under section 42 of the Armed Forces Act 2006, anything which by virtue of section 376(1) and (2) of that Act is to be treated as a conviction, and
 - (b) in relation to an offence under section 42 of the Naval Discipline Act 1957 and a member State service offence, a finding of guilt in respect of the person;
- “member State service offence” means an offence which was the subject of proceedings under the law of a member State, other than the United Kingdom, governing all or any of the naval, military or air forces of that State.

- (4) For the purposes of subsection (1)(c) and (d), where the offence was committed by aiding, abetting, counselling or procuring, it must be assumed that the act aided, abetted, counselled or procured was done in England and Wales.
- (5) In this section—
- (a) in subsection (1)—
 - (i) in paragraph (b), for “Scotland, Northern Ireland or a member State other than the United Kingdom” substitute “Scotland or Northern Ireland”,
 - (ii) at the end of paragraph (c) insert “or”, and
 - (iii) omit paragraph (e) and the “or” preceding that paragraph, and
 - (b) in subsection (3)—
 - (i) for the definition of “civilian offence” substitute—
““civilian offence” means an offence other than an offence under an enactment mentioned in subsection (1)(c) or (d);”,
 - (ii) in the definition of “conviction”, in paragraph (b) omit “and a member State service offence”, and
 - (iii) omit the definition of “member State service offence”.

10 Search for corrosive substances: England and Wales

- (1) Section 1 of the Police and Criminal Evidence Act 1984 (power of constable to stop and search persons, vehicles etc) is amended as follows.
- (2) In subsection (2), after “any article to which subsection (8A) below applies” insert “, any substance to which subsection (8AA) below applies”.
- (3) In subsection (3), after “any article to which subsection (8A) below applies” insert “, any substance to which subsection (8AA) below applies”.
- (4) In subsection (6), after “an article to which subsection (8A) below applies” insert “, a substance to which subsection (8AA) below applies”.
- (5) After subsection (8A) insert—
- “(8AA) This subsection applies to any substance in relation to which a person has committed, or is committing or is going to commit an offence under section 6 of the Offensive Weapons Act 2019 (offence of having a corrosive substance in a public place).
- (8AB) In this section references to such a substance include an article which contains such a substance.”

11 Search for corrosive substances: Scotland

- (1) This section applies if a constable has reasonable grounds for suspecting that a person—
- (a) is carrying a corrosive substance, and
 - (b) has committed or is committing an offence under section 6.
- (2) The constable may search the person without warrant, and detain the person for such time as is reasonably required to permit the search to be carried out.

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

- (3) If in the course of the search the constable finds a substance which the constable reasonably suspects to be a corrosive substance, the constable may seize and retain the substance and any article in which it is contained.
- (4) If a constable detains a person under this section the constable must inform the person of the reason for doing so.
- (5) A person commits an offence if the person—
 - (a) intentionally obstructs a constable in the exercise of the constable’s powers under this section, or
 - (b) conceals a corrosive substance from a constable acting in the exercise of those powers.
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) In this section “corrosive substance” has the same meaning as in section 6.

12 Search for corrosive substances: Northern Ireland

- (1) Article 3 of the Police and Criminal Evidence (Northern Ireland) Order 1989 ([SI 1989/1341 \(NI 12\)](#)) (power of constable to stop and search persons, vehicles etc) is amended in accordance with subsections (2) to (5).
- (2) In paragraph (2)(a), after “any article to which paragraph (9) applies” insert “, any substance to which paragraph (9ZA) applies”.
- (3) In paragraph (3), after “any article to which paragraph (9) applies” insert “, any substance to which paragraph (9ZA) applies”.
- (4) In paragraph (6), after “an article to which paragraph (9) applies” insert “, a substance to which paragraph (9ZA) applies”.
- (5) After paragraph (9) insert—
 - “(9ZA) This paragraph applies to any substance in relation to which a person has committed, or is committing or is going to commit an offence under section 6 of the Offensive Weapons Act 2019 (offence of having a corrosive substance in a public place).
 - (9ZB) In this Article references to such a substance include an article which contains such a substance.”
- (6) In Schedule 2A to the Police (Northern Ireland) Act 2003 (powers and duties of community support officer), after paragraph 17 insert—

“Powers in relation to corrosive substances

- 17A A CSO shall have the powers of a constable under Article 3 of the 1989 Order in relation to any substance to which paragraph (9ZA) of that Article applies.”