



Assaults on Emergency Workers (Offences) Act 2018

2018 CHAPTER 23

Aggravation

1 Common assault and battery

- (1) The section applies to an offence of common assault, or battery, that is committed against an emergency worker acting in the exercise of functions as such a worker.
- (2) A person guilty of an offence to which this section applies is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 12 months, or to a fine, or to both.
- (3) For the purposes of subsection (1), the circumstances in which an offence is to be taken as committed against a person acting in the exercise of functions as an emergency worker include circumstances where the offence takes place at a time when the person is not at work but is carrying out functions which, if done in work time, would have been in the exercise of functions as an emergency worker.
- (4) In relation to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 (increase in maximum term that may be imposed on summary conviction of offence triable either way), the reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months.
- (5) In consequence of subsections (1) to (3), in section 39 of the Criminal Justice Act 1988 (which provides for common assault and battery to be summary offences punishable with imprisonment for a term not exceeding 6 months)—
 - (a) the existing text becomes subsection (1);
 - (b) after that subsection insert—
 - “(2) Subsection (1) is subject to section 1 of the Assaults on Emergency Workers (Offences) Act 2018 (which makes provision for increased

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sentencing powers for offences of common assault and battery committed against an emergency worker acting in the exercise of functions as such a worker).”

- (6) This section applies only in relation to offences committed on or after the day it comes into force.

2 Aggravating factor

- (1) This section applies where—
- (a) the court is considering for the purposes of sentencing the seriousness of an offence listed in subsection (3), and
 - (b) the offence was committed against an emergency worker acting in the exercise of functions as such a worker.
- (2) The court—
- (a) must treat the fact mentioned in subsection (1)(b) as an aggravating factor (that is to say, a factor that increases the seriousness of the offence), and
 - (b) must state in open court that the offence is so aggravated.
- (3) The offences referred to in subsection (1)(a) are—
- (a) an offence under any of the following provisions of the Offences against the Person Act 1861—
 - (i) section 16 (threats to kill);
 - (ii) section 18 (wounding with intent to cause grievous bodily harm);
 - (iii) section 20 (malicious wounding);
 - (iv) section 23 (administering poison etc);
 - (v) section 28 (causing bodily injury by gunpowder etc);
 - (vi) section 29 (using explosive substances etc with intent to cause grievous bodily harm);
 - (vii) section 47 (assault occasioning actual bodily harm);
 - (b) an offence under section 3 of the Sexual Offences Act 2003 (sexual assault);
 - (c) manslaughter;
 - (d) kidnapping;
 - (e) an ancillary offence in relation to any of the preceding offences.
- (4) For the purposes of subsection (1)(b), the circumstances in which an offence is to be taken as committed against a person acting in the exercise of functions as an emergency worker include circumstances where the offence takes place at a time when the person is not at work but is carrying out functions which, if done in work time, would have been in the exercise of functions as an emergency worker.
- (5) In this section—
- “ancillary offence”, in relation to an offence, means any of the following—
- (a) aiding, abetting, counselling or procuring the commission of the offence;
 - (b) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to the offence;
 - (c) attempting or conspiring to commit the offence;
- “emergency worker” has the meaning given by section 3.

- (6) Nothing in this section prevents a court from treating the fact mentioned in subsection (1)(b) as an aggravating factor in relation to offences not listed in subsection (3).
- (7) This section applies only in relation to offences committed on or after the day it comes into force.

3 Meaning of “emergency worker”

- (1) In sections 1 and 2, “emergency worker” means—
 - (a) a constable;
 - (b) a person (other than a constable) who has the powers of a constable or is otherwise employed for police purposes or is engaged to provide services for police purposes;
 - (c) a National Crime Agency officer;
 - (d) a prison officer;
 - (e) a person (other than a prison officer) employed or engaged to carry out functions in a custodial institution of a corresponding kind to those carried out by a prison officer;
 - (f) a prisoner custody officer, so far as relating to the exercise of escort functions;
 - (g) a custody officer, so far as relating to the exercise of escort functions;
 - (h) a person employed for the purposes of providing, or engaged to provide, fire services or fire and rescue services;
 - (i) a person employed for the purposes of providing, or engaged to provide, search services or rescue services (or both);
 - (j) a person employed for the purposes of providing, or engaged to provide—
 - (i) NHS health services, or
 - (ii) services in the support of the provision of NHS health services, and whose general activities in doing so involve face to face interaction with individuals receiving the services or with other members of the public.
- (2) It is immaterial for the purposes of subsection (1) whether the employment or engagement is paid or unpaid.
- (3) In this section—
 - “custodial institution” means any of the following—
 - (a) a prison;
 - (b) a young offender institution, secure training centre, secure college or remand centre;
 - (c) a removal centre, a short-term holding facility or pre-departure accommodation, as defined by section 147 of the Immigration and Asylum Act 1999;
 - (d) services custody premises, as defined by section 300(7) of the Armed Forces Act 2006;
 - “custody officer” has the meaning given by section 12(3) of the Criminal Justice and Public Order Act 1994;
 - “escort functions”—
 - (a) in the case of a prisoner custody officer, means the functions specified in section 80(1) of the Criminal Justice Act 1991;

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(b) in the case of a custody officer, means the functions specified in paragraph 1 of Schedule 1 to the Criminal Justice and Public Order Act 1994;

“NHS health services” means any kind of health services provided as part of the health service continued under section 1(1) of the National Health Service Act 2006 and under section 1(1) of the National Health Service (Wales) Act 2006;

“prisoner custody officer” has the meaning given by section 89(1) of the Criminal Justice Act 1991.