



# Legal Aid, Sentencing and Punishment of Offenders Act 2012

## 2012 CHAPTER 10

### PART 3

#### SENTENCING AND PUNISHMENT OF OFFENDERS

### CHAPTER 9

#### OFFENCES

#### **142 Offences of threatening with article with blade or point or offensive weapon in public or on school premises**

- (1) In the Prevention of Crime Act 1953, after section 1 (prohibition of the carrying of offensive weapons without lawful authority or reasonable excuse) insert—

#### **“1A Offence of threatening with offensive weapon in public**

- (1) A person is guilty of an offence if that person—
- has an offensive weapon with him or her in a public place,
  - unlawfully and intentionally threatens another person with the weapon, and
  - does so in such a way that there is an immediate risk of serious physical harm to that other person.
- (2) For the purposes of this section physical harm is serious if it amounts to grievous bodily harm for the purposes of the Offences against the Person Act 1861.
- (3) In this section “public place” and “offensive weapon” have the same meaning as in section 1.

*Status: Point in time view as at 01/10/2013.*

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- (4) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 4 years or to a fine, or to both.
- (5) Where a person aged 16 or over is convicted of an offence under this section, 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 or to the offender, and
  - (b) would make it unjust to do so in all the circumstances.
- (6) In this section “appropriate custodial sentence” means—
- (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 at least 16 but under 18 when convicted, a detention and training order of at least 4 months.
- (7) In considering whether it is of the opinion mentioned in subsection (5) in the case of a person aged under 18, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933.
- (8) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in subsection (4) (a) to 12 months is to be read as a reference to 6 months.
- (9) In relation to times before the coming into force of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000, the reference in subsection (6)(a) to a sentence of imprisonment, in relation to an offender aged under 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.
- (10) If on a person's trial for an offence under this section (whether on indictment or not) the person is found not guilty of that offence but it is proved that the person committed an offence under section 1, the person may be convicted of the offence under that section.”
- (2) In the Criminal Justice Act 1988 after section 139A (offence of having article with blade or point or offensive weapon on school premises) insert—

**“139AA Offence of threatening with article with blade or point or offensive weapon**

- (1) A person is guilty of an offence if that person—
- (a) has an article to which this section applies with him or her in a public place or on school premises,
  - (b) unlawfully and intentionally threatens another person with the article, and
  - (c) does so in such a way that there is an immediate risk of serious physical harm to that other person.

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- (2) In relation to a public place this section applies to an article to which section 139 applies.
- (3) In relation to school premises this section applies to each of these—
  - (a) an article to which section 139 applies;
  - (b) an offensive weapon within the meaning of section 1 of the Prevention of Crime Act 1953.
- (4) For the purposes of this section physical harm is serious if it amounts to grievous bodily harm for the purposes of the Offences against the Person Act 1861.
- (5) In this section—
  - “public place” has the same meaning as in section 139;
  - “school premises” has the same meaning as in section 139A.
- (6) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 4 years or to a fine, or to both.
- (7) Where a person aged 16 or over is convicted of an offence under this section, 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 or to the offender, and
  - (b) would make it unjust to do so in all the circumstances.
- (8) In this section “appropriate custodial sentence” means—
  - (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 at least 16 but under 18 when convicted, a detention and training order of at least 4 months.
- (9) In considering whether it is of the opinion mentioned in subsection (7) in the case of a person aged under 18, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933.
- (10) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in subsection (6) (a) to 12 months is to be read as a reference to 6 months.
- (11) In relation to times before the coming into force of paragraph 180 of Schedule 7 to the Criminal Justice and Court Services Act 2000, the reference in subsection (8)(a) to a sentence of imprisonment, in relation to an offender aged under 21 at the time of conviction, is to be read as a reference to a sentence of detention in a young offender institution.
- (12) If on a person's trial for an offence under this section (whether on indictment or not) the person is found not guilty of that offence but it is proved that the person committed an offence under section 139 or 139A, the person may be convicted of the offence under that section.”

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- (3) Schedule 26 (knives and offensive weapons: minor and consequential amendments) has effect.

### 143 Offence of causing serious injury by dangerous driving

- (1) The Road Traffic Act 1988 is amended as follows.  
 (2) After section 1 insert—

#### “1A Causing serious injury by dangerous driving

- (1) A person who causes serious injury to another person by driving a mechanically propelled vehicle dangerously on a road or other public place is guilty of an offence.  
 (2) In this section “serious injury” means—  
 (a) in England and Wales, physical harm which amounts to grievous bodily harm for the purposes of the Offences against the Person Act 1861, and  
 (b) in Scotland, severe physical injury.”  
 (3) In section 2A (meaning of dangerous driving) in subsections (1) and (2) after “sections 1” insert “, 1A ”.  
 (4) Section 1A inserted by subsection (2) has effect only in relation to driving occurring after that subsection comes into force.  
 (5) In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences under the Traffic Acts) in the appropriate place insert—

“RTA section 1A	Causing serious injury by dangerous driving.	(a) Summarily.	(a) 12 months or the statutory maximum or both.	Obligatory.	Obligatory.	3-11.”
		(b) indictment.	On (b) 5 years or a fine or both.”			

- (6) In the entry inserted by subsection (5), in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 “12 months” is to be read as “6 months (in England and Wales) or 12 months (in Scotland)”.  
 (7) Schedule 27 (causing serious injury by dangerous driving: minor and consequential amendments) has effect.

### 144 Offence of squatting in a residential building

- (1) A person commits an offence if—  
 (a) the person is in a residential building as a trespasser having entered it as a trespasser,  
 (b) the person knows or ought to know that he or she is a trespasser, and

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- (c) the person is living in the building or intends to live there for any period.
- (2) The offence is not committed by a person holding over after the end of a lease or licence (even if the person leaves and re-enters the building).
- (3) For the purposes of this section—
  - (a) “building” includes any structure or part of a structure (including a temporary or moveable structure), and
  - (b) a building is “residential” if it is designed or adapted, before the time of entry, for use as a place to live.
- (4) For the purposes of this section the fact that a person derives title from a trespasser, or has the permission of a trespasser, does not prevent the person from being a trespasser.
- (5) A person convicted of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 51 weeks or a fine not exceeding level 5 on the standard scale (or both).
- (6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (5) to 51 weeks is to be read as a reference to 6 months.
- (7) For the purposes of subsection (1)(a) it is irrelevant whether the person entered the building as a trespasser before or after the commencement of this section.
- (8) In section 17 of the Police and Criminal Evidence Act 1984 (entry for purpose of arrest etc)—
  - (a) in subsection (1)(c), after sub-paragraph (v) insert—
    - “(vi) section 144 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (squatting in a residential building);”;
  - (b) in subsection (3), for “or (iv)” substitute “, (iv) or (vi) ”.
- (9) In Schedule 10 to the Criminal Justice and Public Order Act 1994 (consequential amendments), omit paragraph 53(b).

**<sup>F1</sup>145 Scrap metal dealing: increase in penalties for existing offences**

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**Textual Amendments**

**F1** Ss. 145-147 repealed (1.10.2013) by [Scrap Metal Dealers Act 2013 \(c. 10\)](#), **ss. 19(1)(f), 23(2)**; S.I. 2013/1966, **art. 3(r)** (with **art. 5**)

**<sup>F1</sup>146 Offence of buying scrap metal for cash etc**

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**Textual Amendments**

**F1** Ss. 145-147 repealed (1.10.2013) by [Scrap Metal Dealers Act 2013 \(c. 10\)](#), **ss. 19(1)(f), 23(2)**; S.I. 2013/1966, [art. 3\(r\)](#) (with [art. 5](#))

**F1 147 Review of offence of buying scrap metal for cash etc**

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**Textual Amendments**

**F1** Ss. 145-147 repealed (1.10.2013) by [Scrap Metal Dealers Act 2013 \(c. 10\)](#), **ss. 19(1)(f), 23(2)**; S.I. 2013/1966, [art. 3\(r\)](#) (with [art. 5](#))

**148 Reasonable force for the purposes of self-defence etc**

- (1) Section 76 of the Criminal Justice and Immigration Act 2008 (reasonable force for the purposes of self-defence etc) is amended as follows.
- (2) In subsection (2) after paragraph (a) omit “and” and insert—
  - “(aa) the common law defence of defence of property; and”.
- (3) After subsection (6) insert—
  - “(6A) In deciding the question mentioned in subsection (3), a possibility that D could have retreated is to be considered (so far as relevant) as a factor to be taken into account, rather than as giving rise to a duty to retreat.”
- (4) In subsection (8) for “Subsection (7) is” substitute “ Subsections (6A) and (7) are ”.
- (5) In subsection (10)(a) after sub-paragraph (i) omit “or” and insert—
  - “(ia) the purpose of defence of property under the common law, or”.
- (6) Paragraph 27 of Schedule 27 to the Criminal Justice and Immigration Act 2008 (which provides for section 76 of that Act to apply whenever the alleged offence took place, but not in relation to certain proceedings if they began, or the arraignment took place, before that section comes into force) applies to any amendment made by this section to section 76 of that Act as it applies to that section, but as if references to the date on which that section comes into force were references to the date on which the amendment comes into force.

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**Changes to legislation:**

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