



Criminal Justice and Courts Act 2015

2015 CHAPTER 2

PART 1

CRIMINAL JUSTICE

Repeat offences involving offensive weapons etc

28 Minimum sentence for repeat offences involving offensive weapons etc

- (1) The Prevention of Crime Act 1953 is amended as follows.
- (2) In section 1 (prohibition of the carrying of offensive weapons without lawful authority or reasonable excuse), after subsection (2) insert—
 - “(2A) Subsection (2B) applies where—
 - (a) a person is convicted of an offence under subsection (1) committed after this subsection is commenced, and
 - (b) when the offence was committed, the person was aged 16 or over and had at least one relevant conviction (see section 1ZA).
 - (2B) Where this subsection applies, 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.
 - (2C) 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.
 - (2D) In considering whether it is of the opinion mentioned in subsection (2B) in the case of a person aged 16 or 17, the court must have regard to its

duty under section 44 of the Children and Young Persons Act 1933 (general considerations).

(2E) Where—

- (a) an appropriate custodial sentence has been imposed on a person under subsection (2B), and
- (b) a relevant conviction without which subsection (2B) would not have applied has been subsequently set aside on appeal,

notice of appeal against the sentence may be given at any time within 28 days from the date on which the conviction was set aside (despite anything in section 18 of the Criminal Appeal Act 1968 (initiating procedure)).

(2F) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.

(2G) 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 (2C)(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.”

(3) After section 1 insert—

“1ZA Offence under section 1: previous relevant convictions

(1) For the purposes of section 1, “relevant conviction” means—

- (a) a conviction for an offence under—
 - (i) section 1 or 1A of this Act, or
 - (ii) section 139, 139A or 139AA of the Criminal Justice Act 1988,
 (a “relevant offence”), whenever committed,
- (b) a conviction in Scotland, Northern Ireland or a member State other than the United Kingdom for a civilian offence, whenever committed, 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, whenever committed, 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, whenever committed, in respect of which the corresponding civil offence (within the meaning of the Act in question) is a relevant offence, and
- (e) a conviction for a member State service offence, whenever committed, which would have constituted a relevant offence if committed in England and Wales at the time of conviction.

(2) In this section—

“civilian offence” means an offence other than—

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- (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.
- (3) 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.”
- (4) The Criminal Justice Act 1988 is amended as follows.
- (5) In section 139 (offence of having article with blade or point in public place), after subsection (6) insert—
- “(6A) Subsection (6B) applies where—
- (a) a person is convicted of an offence under subsection (1) by a court in England and Wales,
 - (b) the offence was committed after this subsection is commenced, and
 - (c) when the offence was committed, the person was aged 16 or over and had at least one relevant conviction (see section 139AZA).
- (6B) Where this subsection applies, 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.
- (6C) 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.
- (6D) In considering whether it is of the opinion mentioned in subsection (6B) in the case of a person aged 16 or 17, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933 (general considerations).
- (6E) Where—
- (a) an appropriate custodial sentence has been imposed on a person under subsection (6B), and

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- (b) a relevant conviction without which subsection (6B) would not have applied has been subsequently set aside on appeal,
notice of appeal against the sentence may be given at any time within 28 days from the date on which the conviction was set aside (despite anything in section 18 of the Criminal Appeal Act 1968 (initiating procedure)).
- (6F) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.
- (6G) 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 (6C)(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.”
- (6) In section 139A (offence of having article with blade or point (or offensive weapon) on school premises), after subsection (5) insert—
- “(5A) Subsection (5B) applies where—
- (a) a person is convicted of an offence under subsection (1) or (2) by a court in England and Wales,
 - (b) the offence was committed after this subsection is commenced, and
 - (c) when the offence was committed, the person was aged 16 or over and had at least one relevant conviction (see section 139AZA).
- (5B) Where this subsection applies, 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.
- (5C) 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.
- (5D) In considering whether it is of the opinion mentioned in subsection (5B) in the case of a person aged 16 or 17, the court must have regard to its duty under section 44 of the Children and Young Persons Act 1933 (general considerations).
- (5E) Where—
- (a) an appropriate custodial sentence has been imposed on a person under subsection (5B), and
 - (b) a relevant conviction without which subsection (5B) would not have applied has been subsequently set aside on appeal,
notice of appeal against the sentence may be given at any time within 28 days from the date on which the conviction was set aside (despite anything in section 18 of the Criminal Appeal Act 1968 (initiating procedure)).

- (5F) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.
- (5G) 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 (5C)(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.”

(7) After section 139A insert—

“139AZA Offences under sections 139 and 139A: previous relevant convictions

- (1) For the purposes of sections 139 and 139A, “relevant conviction” means—
- (a) a conviction for an offence under—
 - (i) section 1 or 1A of the Prevention of Crime Act 1953, or
 - (ii) section 139, 139A or 139AA of this Act,(a “relevant offence”), whenever committed,
 - (b) a conviction in Scotland, Northern Ireland or a member State other than the United Kingdom for a civilian offence, whenever committed, 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, whenever committed, 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, whenever committed, in respect of which the corresponding civil offence (within the meaning of the Act in question) is a relevant offence, and
 - (e) a conviction for a member State service offence, whenever committed, which would have constituted a relevant offence if committed in England and Wales at the time of conviction.
- (2) 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;

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“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.

(3) 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.”

(8) Schedule 5 to this Act contains consequential provision.