Offensive Weapons Act 2019

2019 CHAPTER 17

PART 3

SALE AND DELIVERY OF KNIVES ETC

34 Sale etc of bladed articles to persons under 18

(1) In section 141A of the Criminal Justice Act 1988 (sale etc of bladed articles to persons under 18), in subsection (3) (articles to which the section does not apply)—

(a) at the end of paragraph (a) insert " or ", and

(b) omit paragraph (b) and the "or" at the end of that paragraph.

(2) In Article 54 of the Criminal Justice (Northern Ireland) Order 1996 (SI 1996/3160 (NI 24)) (sale of bladed articles to persons under 18), in paragraph (3) (articles to which the Article does not apply)—

(a) at the end of sub-paragraph (a) insert " or ", and

(b) omit sub-paragraph (b) and the "or" at the end of that sub-paragraph.

Commencement Information

I1 S. 34(1) in force at 1.1.2021 for S. by S.S.I. 2020/410, **reg. 2(e)**

I2 S. 34(1) in force at 6.4.2022 for E.W. by S.I. 2022/418, regs. 1(2)(5), **2(b)** (with reg. 3)

35 Defence to sale of bladed articles to persons under 18: England and Wales

(1) The Criminal Justice Act 1988 is amended as follows.

(2) In section 141A (sale of bladed articles to persons under 18) as that section has effect in England and Wales, in subsection (4), for "It" substitute " Subject to section 141B, it ".

(3) After section 141A insert—

Status: *This version of this part contains provisions that are prospective.*
Changes to legislation: *There are currently no known outstanding effects for the Offensive Weapons Act 2019, PART 3. (See end of Document for details)*

"141B Limitations on defence to offence under section 141A: England and Wales

(1) This section applies if—

(a) a person ("the seller") is charged with an offence under section 141A (sale of bladed articles to persons under 18), and

(b) the seller was not in the presence of the person ("the buyer") to whom the article to which the charge relates was sold at the time of the sale.

(2) For the purposes of subsection (1)(b) the seller was not in the presence of the buyer at the time of the sale if—

(a) where the seller is an individual, the seller or a person acting on the seller's behalf was not in the presence of the buyer at that time;

(b) where the seller is not an individual, a person acting on the seller's behalf was not in the presence of the buyer at that time.

(3) The seller is not to be regarded as having proved that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence unless, as a minimum, they prove that the following conditions are met.

(4) Condition A is that, at the time the offence is alleged to have been committed—

(a) the seller operated a system for checking that persons who bought articles to which section 141A applied by the same or a similar method of purchase to that used by the buyer were not under the age of 18, and

(b) that system was likely to prevent persons under the age of 18 from buying such articles by that method.

(5) Condition B is that when the package containing the article was dispatched by the seller, it was clearly marked to indicate—

(a) that it contained an article with a blade or which was sharply pointed (as the case may be), and

(b) that, when finally delivered, it should only be delivered into the hands of a person aged 18 or over.

(6) Condition C is that the seller took all reasonable precautions and exercised all due diligence to ensure that, when finally delivered, the package would be delivered into the hands of a person aged 18 or over.

(7) Condition D is that the seller did not deliver the package, or arrange for its delivery, to a locker.

(8) Where the article to which section 141A applied was dispatched by the seller to a place from which it was to be collected by the buyer or a person acting on behalf of the buyer, references in subsections (5) and (6) to the final delivery of the article are to be read as its supply to the buyer or a person acting on behalf of the buyer from that place.

(9) In subsection (7) "locker" means a lockable container to which the package was delivered with a view to its collection by the buyer, or a person acting

on behalf of the buyer, in accordance with arrangements made between the seller and the buyer."

Commencement Information

I3 S. 35 in force at 6.4.2022 by S.I. 2022/418, regs. 1(2)(5), **2(b)** (with reg. 3)

36 Defence to sale etc of bladed articles to persons under 18: Scotland

(1) The Criminal Justice Act 1988 is amended as follows.

(2) In section 141A (sale or letting on hire of bladed articles to persons under 18) as that section has effect in Scotland, in each of subsections (3A) and (4), for "It" substitute " Except where section 141C applies, it ".

(3) After section 141B (inserted by section 35(3)) insert—

"**141C Defence to offence under section 141A where remote sale or letting on hire: Scotland**

(1) This section applies if—

(a) a person ("the accused") is charged with an offence under section 141A (sale or letting on hire of bladed articles to persons under 18), and

(b) the accused was not in the presence of the person ("the recipient") to whom the article to which the charge relates was sold or let on hire at the time of the sale or letting on hire.

(2) For the purposes of subsection (1)(b) the accused was not in the presence of the recipient at the time of the sale or letting on hire if—

(a) where the accused is an individual, the accused or a person acting on the accused's behalf was not in the presence of the recipient at that time;

(b) where the accused is not an individual, a person acting on the accused's behalf was not in the presence of the recipient at that time.

(3) It is a defence for the accused to show that the conditions in subsections (5) to (8) are met.

(4) The accused is to be taken to have shown a matter mentioned in subsections (5) to (8) 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.

(5) Condition A is that, at the time the offence is alleged to have been committed—

(a) the accused operated a system for checking that persons who bought or hired articles to which section 141A applied by the same or a similar method of purchase or hire to that used by the recipient were not under the age of 18, and

(b) that system was likely to prevent persons under the age of 18 from buying or hiring such articles by that method.

(6) Condition B is that when the package containing the article was dispatched by the accused, it was clearly marked to indicate—

(a) that it contained an article with a blade or which was sharply pointed (as the case may be), and

(b) that, when finally delivered, it should only be delivered into the hands of a person aged 18 or over.

(7) Condition C is that the accused took all reasonable precautions and exercised all due diligence to ensure that, when finally delivered, the package would be delivered into the hands of a person aged 18 or over.

(8) Condition D is that the accused did not deliver the package, or arrange for its delivery, to a locker.

(9) Where the article to which section 141A applied was dispatched by the accused to a place from which it was to be collected by the recipient or a person acting on behalf of the recipient, references in subsections (6) and (7) to the final delivery of the article are to be read as its supply to the recipient, or a person acting on behalf of the recipient, from that place.

(10) In subsection (8) "locker" means a lockable container to which the package was delivered with a view to its collection by the recipient, or a person acting on behalf of the recipient, in accordance with arrangements made between the accused and the recipient."

(4) In section 172(4) (provisions which extend only to Scotland) after the entry for section 141ZA insert— " section 141C; ".

Commencement Information

I4 S. 36 in force at 1.1.2021 for S. by S.S.I. 2020/410, **reg. 2(f)**

PROSPECTIVE

37 Defence to sale of bladed articles to persons under 18: Northern Ireland

(1) The Criminal Justice (Northern Ireland) Order 1996 (SI 1996/3160 (NI 24)) is amended as follows.

(2) In Article 54 (sale of bladed articles to persons under 18), in paragraph (4), for "It" substitute " Subject to Article 54A, it ".

(3) After that Article insert—

"54A **Limitations on defence to offence under Article 54**

(1) This Article applies if—

(a) a person ("the seller") is charged with an offence under Article 54 (sale of bladed articles to persons under 18), and

(b) the seller was not in the presence of the person ("the buyer") to whom the article to which the charge relates was sold at the time of the sale.

(2) For the purposes of paragraph (1)(b) the seller was not in the presence of the buyer at the time of the sale if—

(a) where the seller is an individual, the seller or a person acting on the seller's behalf was not in the presence of the buyer at that time;

(b) where the seller is not an individual, a person acting on the seller's behalf was not in the presence of the buyer at that time.

(3) The seller is not to be regarded as having proved that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence unless, as a minimum, they prove that the following conditions are met.

(4) Condition A is that, at the time the offence is alleged to have been committed—

(a) the seller operated a system for checking that persons who bought articles to which Article 54 applied by the same or a similar method of purchase to that used by the buyer were not under the age of 18, and

(b) that system was likely to prevent persons under the age of 18 from buying such articles by that method.

(5) Condition B is that when the package containing the article was dispatched by the seller, it was clearly marked to indicate—

(a) that it contained an article with a blade or which was sharply pointed (as the case may be), and

(b) that, when finally delivered, it should only be delivered into the hands of a person aged 18 or over.

(6) Condition C is that the seller took all reasonable precautions and exercised all due diligence to ensure that, when finally delivered, the package would be delivered into the hands of a person aged 18 or over.

(7) Condition D is that the seller did not deliver the package, or arrange for its delivery, to a locker.

(8) Where the article to which Article 54 applied was dispatched by the seller to a place from which it was to be collected by the buyer or a person acting on behalf of the buyer, references in paragraphs (5) and (6) to the final delivery of the article are to be read as its supply to the buyer or a person acting on behalf of the buyer from that place.

(9) In paragraph (7) "locker" means a lockable container to which the package was delivered with a view to its collection by the buyer, or a person acting on behalf of the buyer, in accordance with arrangements made between the seller and the buyer."

38 Delivery of bladed products to residential premises etc

(1) This section applies if—

(a) a person ("the seller") sells a bladed product to another person ("the buyer"), and

(b) the seller and the buyer are not in each other's presence at the time of the sale.

(2) The seller commits an offence if, for the purposes of supplying the bladed product to the buyer, the seller delivers the bladed product, or arranges for its delivery, to residential premises.

(3) The seller commits an offence if, for the purposes of supplying the bladed product to the buyer, the seller delivers the bladed product, or arranges for its delivery, to a locker.

(4) For the purposes of subsection (1)(b) a person ("A") is not in the presence of another person ("B") at any time if—

(a) where A is an individual, A or a person acting on behalf of A is not in the presence of B at that time;

(b) where A is not an individual, a person acting on behalf of A is not in the presence of B at that time.

(5) In subsection (2) "residential premises" means premises used solely for residential purposes.

(6) The circumstances where premises are not residential premises for the purposes of that subsection include, in particular, where a person carries on a business from the premises.

(7) In subsection (3) "locker" means a lockable container to which the bladed product is delivered with a view to its collection by the buyer, or a person acting on behalf of the buyer, in accordance with arrangements made between the seller and the buyer.

(8) A person guilty of an offence under this section is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, to a fine or to both;

(b) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding level 5 on the standard scale or to both.

(9) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (8)(a) to 51 weeks is to be read as a reference to 6 months.

(10) This section is subject to section 40 (defences).

Commencement Information

I5 S. 38 in force at 6.4.2022 for E.W. by S.I. 2022/418, regs. 1(2)(5), **2(b)** (with reg. 3)

I6 S. 38 in force at 28.6.2022 for S. by S.S.I. 2022/150, **reg. 2(b)**

39 Delivery of bladed products to persons under 18

(1) This section applies if—

(a) a person ("the seller") sells a bladed product to another person ("the buyer"),

(b) the seller and the buyer are not in each other's presence at the time of the sale and the seller is within the United Kingdom at that time,

(c) before the sale, the seller entered into an arrangement with a person who is a body corporate by which the person agreed to deliver bladed products for the seller,

(d) that person was aware when they entered into the arrangement that it covered the delivery of bladed products, and

(e) that person delivers the bladed product to residential premises pursuant to that arrangement.

(2) For the purposes of subsection (1)(b) a person ("A") is not in the presence of another person ("B") at any time if—

(a) where A is an individual, A or a person acting on behalf of A is not in the presence of B at that time;

(b) where A is not an individual, a person acting on behalf of A is not in the presence of B at that time.

(3) For the purposes of subsection (1)(b) a person other than an individual is within the United Kingdom at any time if the person carries on a business of selling articles of any kind from premises in any part of the United Kingdom at that time.

(4) In subsection (1)(e) "residential premises" means premises used solely for residential purposes.

(5) The circumstances where premises are not residential premises for the purposes of subsection (1)(e) include, in particular, where a person carries on a business from the premises.

(6) The person mentioned in subsection (1)(e) commits an offence if, when they deliver the bladed product, they do not deliver it into the hands of a person aged 18 or over.

(7) A person guilty of an offence under subsection (6) is liable—

(a) on summary conviction in England and Wales, to a fine;

(b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

(8) This section is subject to section 40 (defences).

Commencement Information

I7 S. 39 in force at 6.4.2022 for E.W. by S.I. 2022/418, regs. 1(2)(5), **2(b)** (with reg. 3)

I8 S. 39 in force at 28.6.2022 for S. by S.S.I. 2022/150, **reg. 2(c)**

40 Defences to offence under section 38 or 39

(1) It is a defence for a person charged with an offence under section 38 to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) It is a defence for a person ("the seller") charged with an offence under section 38(2) of delivering a bladed product to residential premises to prove that—

(a) at the time the offence is alleged to have been committed, the seller had procedures in place which were likely to ensure that any bladed product delivered by the seller to residential premises would be delivered into the hands of a person aged 18 or over, and

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(b) the seller took all reasonable precautions and exercised all due diligence to ensure that the product to which the charge relates would be delivered into the hands of a person aged 18 or over.

(3) It is a defence for a person ("the seller") charged with an offence under section 38(2) of arranging for the delivery of a bladed product to residential premises to prove that—

(a) the arrangement required the person with whom it was made to have procedures in place which were likely to ensure that any bladed products delivered to residential premises pursuant to the arrangement would be delivered into the hands of a person aged 18 or over, and

(b) the seller took all reasonable precautions and exercised all due diligence to ensure that the product to which the charge relates would be delivered into the hands of a person aged 18 or over.

(4) It is a defence for a person charged with an offence under section 38 to prove that the bladed product was designed or manufactured for the buyer in accordance with specifications provided by the buyer.

(5) It is a defence for a person charged with an offence under section 38 to prove that—

(a) the bladed product was adapted for the buyer before its delivery in accordance with specifications provided by the buyer, and

(b) the adaptations were made to enable or facilitate the use of the product by the buyer or its use for a particular purpose.

(6) It is a defence for a person charged with an offence under section 38 to prove that they reasonably believed that the buyer bought the bladed product for use for relevant sporting purposes or for the purposes of historical re-enactment.

(7) It is a defence for a person charged in England and Wales or Northern Ireland with an offence under section 39 to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(8) It is a defence for a person ("the accused") charged in Scotland with an offence under section 39 to show that—

(a) the accused believed the person into whose hands the bladed product was delivered to be aged 18 or over, and

(b) either the accused had taken reasonable steps to establish the person's age or no reasonable person could have suspected from the person's appearance that the person was under the age of 18.

(9) For the purposes of subsection (8)(b), the accused is to be treated as having taken reasonable steps to establish the person's age if and only if—

(a) the accused was shown any of the documents mentioned in subsection (10), and

(b) the document would have convinced a reasonable person.

(10) Those documents are any document bearing to be—

(a) a passport,

(b) a European Union photocard driving licence, or

(c) such other document, or a document of such other description, as the Scottish Ministers may prescribe by order.

(11) In the application of this section to Scotland references to a person proving a matter are to be read as references to a person showing a matter.

(12) A person is to be taken to have shown a matter for the purposes of subsection (8) or (11) 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.

(13) The appropriate national authority may by regulations provide for other defences to an offence under section 38 or 39.

(14) In this section—

"the appropriate national authority" means—

(a) in relation to England and Wales, the Secretary of State,

(b) in relation to Scotland, the Scottish Ministers, and

(c) in relation to Northern Ireland, the Department of Justice in Northern Ireland;

"the buyer" has the same meaning as in section 38;

"historical re-enactment" means a presentation or other event held for the purpose of re-enacting an event from the past or of illustrating conduct from a particular time or period in the past;

"residential premises" has the same meaning as in section 38.

(15) For the purposes of this section a bladed product is used by a person for relevant sporting purposes if and only if—

(a) the product is used by the person to participate in a competitive sport involving combat between individuals, and

(b) use of the product is an integral part of that sport.

Commencement Information

I9 S. 40 in force at 6.4.2022 for E.W. by S.I. 2022/418, regs. 1(2)(5), **2(b)** (with reg. 3)

I10 S. 40 in force at 28.6.2022 for S. by S.S.I. 2022/150, **reg. 2(d)**

41 Meaning of "bladed product" in sections 38 to 40

(1) Subject to subsections (2) to (4), in sections 38 to 40 "bladed product" means an article which—

(a) is or has a blade, and

(b) is capable of causing a serious injury to a person which involves cutting that person's skin.

(2) In sections 38 to 40 so far as they apply to England and Wales, "bladed product" does not include an article described in—

(a) section 1 of the Restriction of Offensive Weapons Act 1959, or

(b) an order made by the Secretary of State under section 141A(3)(c) of the Criminal Justice Act 1988.

(3) In sections 38 to 40 so far as they apply to Scotland, "bladed product" does not include an article described in—

(a) section 1 of the Restriction of Offensive Weapons Act 1959,

(b) an order made by the Secretary of State under section 141A(3)(c) of the Criminal Justice Act 1988 which applies to Scotland, or

(c) an order made by the Scottish Ministers under section 141A(3)(c) of that Act.

(4) In sections 38 to 40 so far as they apply to Northern Ireland, "bladed product" does not include an article described in—

(a) Article 53 of the Criminal Justice (Northern Ireland) Order 1996 (SI 1996/3160 (NI 24)), or

(b) an order under Article 54 of that Order.

Commencement Information

I11 S. 41 in force at 6.4.2022 for E.W. by S.I. 2022/418, regs. 1(2)(5), **2(b)** (with reg. 3)

I12 S. 41 in force at 28.6.2022 for S. by S.S.I. 2022/150, **reg. 2(e)**

42 Delivery of bladed articles to persons under 18

(1) This section applies if—

(a) a person ("the seller") sells a bladed article to another person ("the buyer"),

(b) the seller and the buyer are not in each other's presence at the time of the sale and the seller is outside the United Kingdom at that time,

(c) before the sale, the seller entered into an arrangement with a person who is a body corporate by which the person agreed to deliver bladed articles for the seller,

(d) that person was aware when they entered into the arrangement that it covered the delivery of bladed articles, and

(e) that person delivers the bladed article pursuant to that arrangement.

(2) For the purposes of subsection (1)(b) a person ("A") is not in the presence of another person ("B") at any time if—

(a) where A is an individual, A or a person acting on behalf of A is not in the presence of B at that time;

(b) where A is not an individual, a person acting on behalf of A is not in the presence of B at that time.

(3) For the purposes of subsection (1)(b) a person other than an individual is outside the United Kingdom at any time if the person does not carry on a business of selling articles of any kind from premises in any part of the United Kingdom at that time.

(4) The person mentioned in subsection (1)(e) commits an offence if, when they deliver the bladed article, they do not deliver it into the hands of a person aged 18 or over.

(5) It is a defence for a person charged in England and Wales or Northern Ireland with an offence under subsection (4) to prove that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(6) It is a defence for a person ("the accused") charged in Scotland with an offence under subsection (4) to show that—

(a) the accused believed the person into whose hands the bladed article was delivered to be aged 18 or over, and

(b) either the accused had taken reasonable steps to establish the person's age or no reasonable person could have suspected from the person's appearance that the person was under the age of 18.

(7) For the purposes of subsection (6)(b), the accused is to be treated as having taken reasonable steps to establish the person's age if and only if—

(a) the accused was shown any of the documents mentioned in subsection (8), and

(b) the document would have convinced a reasonable person.

(8) Those documents are any document bearing to be—

(a) a passport,

(b) a European Union photocard driving licence, or

(c) such other document, or a document of such other description, as the Scottish Ministers may prescribe by order.

(9) The accused is to be taken to have shown a matter mentioned in subsection (6) 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.

(10) A person guilty of an offence under subsection (4) is liable—

(a) on summary conviction in England and Wales, to a fine;

(b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

(11) In this section "bladed article"—

(a) in relation to England and Wales, means an article to which section 141A of the Criminal Justice Act 1988 applies (as that section has effect in relation to England and Wales);

(b) in relation to Scotland, means an article to which section 141A of the Criminal Justice Act 1988 applies (as that section has effect in relation to Scotland and disregarding subsection (3A) of that section);

(c) in relation to Northern Ireland, means an article to which Article 54 of the Criminal Justice (Northern Ireland) Order 1996 (SI 1996/3160 (NI 24)) applies.

Commencement Information

I13 S. 42 in force at 6.4.2022 for E.W. by S.I. 2022/418, regs. 1(2)(5), **2(b)** (with reg. 3)

I14 S. 42 in force at 28.6.2022 for S. by S.S.I. 2022/150, **reg. 2(f)**

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Changes to legislation:
There are currently no known outstanding effects for the Offensive Weapons Act 2019, PART 3.