



# Prison Act 1952

1952 CHAPTER 52 15 and 16 Geo 6 and 1 Eliz 2

## *Offences*

### **Modifications etc. (not altering text)**

- C1** Power to apply ss. 39–42 with modifications conferred by [Army Act 1955 \(c. 18\), s. 122\(3\)](#), [Air Force Act 1955 \(c. 19\), s. 122\(3\)](#) and [Naval Discipline Act 1957 \(c. 53\), s. 82\(3\)](#)

### **[<sup>F1</sup>39 [<sup>F1</sup>Assisting a prisoner to escape]**

- (1) A person who—
- (a) assists a prisoner in escaping or attempting to escape from a prison, or
  - (b) intending to facilitate the escape of a prisoner—
    - (i) brings, throws or otherwise conveys anything into a prison,
    - (ii) causes another person to bring, throw or otherwise convey anything into a prison, or
    - (iii) gives anything to a prisoner or leaves anything in any place (whether inside or outside a prison),
- is guilty of an offence.
- (2) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding ten years.]

### **Textual Amendments**

- F1** S. 39 substituted (1.4.2008) by [Offender Management Act 2007 \(c. 21\), ss. 21, 41\(1\)](#); S.I. 2008/504, art. 3(g)

### **[<sup>F2</sup>40A Sections 40B and 40C: classification of articles**

- (1) This section defines the categories of articles which are referred to in sections 40B and 40C.

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- (2) A List A article is any article or substance in the following list (“List A”)—
- (a) a controlled drug (as defined for the purposes of the Misuse of Drugs Act 1971);
  - (b) an explosive;
  - (c) any firearm or ammunition (as defined in section 57 of the Firearms Act 1968);
  - (d) any other offensive weapon (as defined in section 1(9) of the Police and Criminal Evidence Act 1984).
- (3) A List B article is any article or substance in the following list (“List B”)—
- (a) alcohol (as defined for the purposes of the Licensing Act 2003);
  - (b) a mobile telephone;
  - (c) a camera;
  - (d) a sound-recording device.
- (4) In List B—
- “camera” includes any device by means of which a photograph (as defined in section 40E) can be produced;
- “sound-recording device” includes any device by means of which a sound-recording (as defined in section 40E) can be made.
- (5) The reference in paragraph (b), (c) or (d) of List B to a device of any description includes a reference to—
- (a) a component part of a device of that description; or
  - (b) an article designed or adapted for use with a device of that description (including any disk, film or other separate article on which images, sounds or information may be recorded).
- (6) A List C article is any article or substance prescribed for the purposes of this subsection by prison rules.
- (7) The Secretary of State may by order amend this section for the purpose of—
- (a) adding an entry to List A or List B;
  - (b) repealing or modifying any entry for the time being included in List A or List B;
  - (c) adding, repealing or modifying any provision for the interpretation of any such entry.]

#### Textual Amendments

**F2** Ss. 40A-40C substituted for s. 40 (1.4.2008) by [Offender Management Act 2007 \(c. 21\), ss. 22\(1\), 41\(1\); S.I. 2008/504, art. 3\(h\)](#)

#### [<sup>F2</sup>40B Conveyance etc. of List A articles into or out of prison

- (1) A person who, without authorisation—
- (a) brings, throws or otherwise conveys a List A article into or out of a prison,
  - (b) causes another person to bring, throw or otherwise convey a List A article into or out of a prison,
  - (c) leaves a List A article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or

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(d) knowing a person to be a prisoner, gives a List A article to him,  
is guilty of an offence.

- (2) In this section “authorisation” means authorisation given for the purposes of this section—
- (a) in relation to all prisons or prisons of a specified description, by prison rules or by the Secretary of State; or
  - (b) in relation to a particular prison, by the Secretary of State or by the governor or director of the prison.

In paragraph (a) “specified” means specified in the authorisation.

- (3) Authorisation may be given to specified persons or persons of a specified description—
- (a) in relation to specified articles or articles of a specified description;
  - (b) in relation to specified acts or acts of a specified description; or
  - (c) on such other terms as may be specified.

In this subsection “specified” means specified in the authorisation.

- (4) Authorisation given by the Secretary of State otherwise than in writing shall be recorded in writing as soon as is reasonably practicable after being given.
- (5) Authorisation given by the governor or director of a prison shall—
- (a) be given in writing; and
  - (b) specify the purpose for which it is given.
- (6) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding ten years or to a fine (or both).]

#### Textual Amendments

- F2** Ss. 40A-40C substituted for s. 40 (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 22(1), 41(1)**; [S.I. 2008/504](#), [art. 3\(h\)](#)

#### [<sup>F2</sup>40C Conveyance etc. of List B or C articles into or out of prison

- (1) A person who, without authorisation—
- (a) brings, throws or otherwise conveys a List B article into or out of a prison,
  - (b) causes another person to bring, throw or otherwise convey a List B article into or out of a prison,
  - (c) leaves a List B article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
  - (d) knowing a person to be a prisoner, gives a List B article to him,
- is guilty of an offence.
- (2) A person who, without authorisation—
- (a) brings, throws or otherwise conveys a List C article into a prison intending it to come into the possession of a prisoner,
  - (b) causes another person to bring, throw or otherwise convey a List C article into a prison intending it to come into the possession of a prisoner,

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- (c) brings, throws or otherwise conveys a List C article out of a prison on behalf of a prisoner,
  - (d) causes another person to bring, throw or otherwise convey a List C article out of a prison on behalf of a prisoner,
  - (e) leaves a List C article in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or
  - (f) while inside a prison, gives a List C article to a prisoner,
- is guilty of an offence.
- (3) A person who attempts to commit an offence under subsection (2) is guilty of that offence.
- (4) In proceedings for an offence under this section it is a defence for the accused to show that—
- (a) he reasonably believed that he had authorisation to do the act in respect of which the proceedings are brought, or
  - (b) in all the circumstances there was an overriding public interest which justified the doing of that act.
- (5) A person guilty of an offence under subsection (1) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine (or both);
  - (b) on summary conviction, to imprisonment for a term not exceeding [<sup>F3</sup>the general limit in a magistrates' court] or to a fine not exceeding the statutory maximum (or both).
- (6) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) In this section “authorisation” means authorisation given for the purposes of this section; and subsections (1) to (3) of section 40E apply in relation to authorisations so given as they apply to authorisations given for the purposes of section 40D.]

#### Textual Amendments

- F2** Ss. 40A-40C substituted for s. 40 (1.4.2008) by [Offender Management Act 2007 \(c. 21\), ss. 22\(1\), 41\(1\); S.I. 2008/504, art. 3\(h\)](#)
- F3** Words in s. 40C(5)(b) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\), regs. 1\(2\), 2\(1\), Sch. Pt. 1 table](#)

#### Modifications etc. (not altering text)

- C2** S. 40C modified (1.4.2008) by [Offender Management Act 2007 \(c. 21\), s. 41\(1\), Sch. 4 para. 5; S.I. 2008/504, art. 3\(m\)](#)

#### [<sup>F4</sup>40CA Unauthorised possession in prison of knife or offensive weapon

- (1) A person who, without authorisation, is in possession of an article specified in subsection (2) inside a prison is guilty of an offence.
- (2) The articles referred to in subsection (1) are—
- (a) any article that has a blade or is sharply pointed;

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- (b) any other offensive weapon (as defined in section 1(9) of the Police and Criminal Evidence Act 1984).
- (3) In proceedings for an offence under this section it is a defence for the accused to show that—
  - (a) he reasonably believed that he had authorisation to be in possession of the article in question, or
  - (b) in all the circumstances there was an overriding public interest which justified his being in possession of the article.
- (4) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding four years or to a fine (or both);
  - (b) on summary conviction, to imprisonment for a term not exceeding [<sup>F5</sup>the general limit in a magistrates’ court] or to a fine (or both).
- (5) In this section “authorisation” means authorisation given for the purposes of this section; and subsections (1) to (3) of section 40E apply in relation to authorisations so given as they apply to authorisations given for the purposes of section 40D.]

#### Textual Amendments

- F4** S. 40CA inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), ss. 78, 88(1) (with s. 86(14)(15)); S.I. 2015/820, reg. 3(o)
- F5** Words in s. 40CA(4)(b) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates’ Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), [Sch. Pt. 1](#) table

#### [<sup>F6</sup>40CB Throwing articles into prison

- (1) A person who, without authorisation, throws any article or substance into a prison is guilty of an offence.
- (2) For the purposes of subsection (1)—
  - (a) the reference to an article or substance does not include a reference to a List A article, a List B article or a List C article (as defined by section 40A);
  - (b) the reference to “throwing” an article or substance into a prison includes a reference to doing anything from outside the prison that results in the article or substance being projected or conveyed over or through a boundary of the prison so as to land inside the prison.
- (3) In proceedings for an offence under this section it is a defence for the accused to show that—
  - (a) he reasonably believed that he had authorisation to do the act in respect of which the proceedings are brought, or
  - (b) in all the circumstances there was an overriding public interest which justified the doing of that act.
- (4) A person guilty of an offence under subsection (1) is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine (or both);

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- (b) on summary conviction, to imprisonment for a term not exceeding [<sup>F7</sup>the general limit in a magistrates' court] or to a fine (or both).
- (5) In this section "authorisation" means authorisation given for the purposes of this section; and subsections (1) to (3) of section 40E apply in relation to authorisations so given as they apply to authorisations given for the purposes of section 40D.]

#### Textual Amendments

- F6** S. 40CB inserted (10.11.2015) by [Serious Crime Act 2015 \(c. 9\)](#), ss. 79, 88(1) (with s. 86(14)(15)); S.I. 2015/1809, reg. 3
- F7** Words in s. 40CB(4)(b) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), [Sch. Pt. 1](#) table

#### [<sup>F8</sup>40D Other offences relating to prison security

- (1) A person who, without authorisation—
- (a) takes a photograph, or makes a sound-recording, inside a prison, or
  - (b) transmits, or causes to be transmitted, any image [<sup>F9</sup>, sound or information] from inside a prison by electronic communications for simultaneous reception outside the prison,
- is guilty of an offence.
- (2) It is immaterial for the purposes of subsection (1)(a) where the recording medium is located.
- (3) A person who, without authorisation—
- (a) brings or otherwise conveys a restricted document out of a prison or causes such a document to be brought or conveyed out of a prison, or
  - <sup>F10</sup>(b) .....  
is guilty of an offence.
- [ A person who, without authorisation, is in possession of any of the items specified in <sup>F11</sup>(3A) subsection (3B) inside a prison is guilty of an offence.]
- [ The items referred to in subsection (3A) are—
- <sup>F11</sup>(3B) (a) a device capable of transmitting or receiving images, sounds or information by electronic communications (including a mobile telephone);
- (b) a component part of such a device;
  - (c) an article designed or adapted for use with such a device (including any disk, film or other separate article on which images, sounds or information may be recorded).]

(4) In proceedings for an offence under this section it is a defence for the accused to show that—

    - (a) he reasonably believed that he had authorisation to do the act in respect of which the proceedings are brought, or
    - (b) in all the circumstances there was an overriding public interest which justified the doing of that act.

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

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- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine (or both); or
- (b) on summary conviction, to imprisonment for a term not exceeding [<sup>F12</sup>the general limit in a magistrates' court] or to a fine not exceeding the statutory maximum (or both).]

#### Textual Amendments

- F8** Ss. 40D, 40E inserted (1.4.2008) by Offender Management Act 2007 (c. 21), ss. 23(1), 41(1); S.I. 2008/504, art. 3(i)
- F9** Words in s. 40D(1)(b) substituted (26.3.2012) by Crime and Security Act 2010 (c. 17), ss. 45(a), 59(1); S.I. 2012/584, art. 2
- F10** S. 40D(3)(b) and word repealed (26.3.2012) by Crime and Security Act 2010 (c. 17), ss. 45(b), 59(1); S.I. 2012/584, art. 2
- F11** S. 40D(3A)(3B) inserted (26.3.2012) by Crime and Security Act 2010 (c. 17), ss. 45(c), 59(1); S.I. 2012/584, art. 2
- F12** Words in s. 40D(5)(b) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), Sch. Pt. 1 table

#### Modifications etc. (not altering text)

- C3** S. 40D modified (1.4.2008) by Offender Management Act 2007 (c. 21), s. 41(1), Sch. 4 para. 5; S.I. 2008/504, art. 3(m)

#### [<sup>F8</sup>40E Section 40D: meaning of “authorisation” and other interpretation

- (1) In section 40D (and the following provisions of this section) “authorisation” means authorisation given for the purposes of that section—
  - (a) in relation to all prisons or prisons of a specified description, by prison rules or by the Secretary of State;
  - (b) in relation to a particular prison—
    - (i) by the Secretary of State;
    - (ii) by the governor or director of the prison;
    - (iii) by a person working at the prison who is authorised by the governor or director to grant authorisation on his behalf.

In paragraph (a) “specified” means specified in the authorisation.

- (2) Authorisation may be given—
  - (a) to persons generally or to specified persons or persons of a specified description; and
  - (b) on such terms as may be specified.

In this subsection “specified” means specified in the authorisation.

- (3) Authorisation given by or on behalf of the governor or director of a prison must be in writing.
- (4) In section 40D “restricted document” means the whole (or any part of)—
  - (a) a photograph taken inside the prison;
  - (b) a sound-recording made inside the prison;

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- (c) a personal record (or a document containing information derived from a personal record);
  - (d) any other document which contains—
    - (i) information relating to an identified or identifiable relevant individual, if the disclosure of that information would or might prejudicially affect the interests of that individual; or
    - (ii) information relating to any matter connected with the prison or its operation, if the disclosure of that information would or might prejudicially affect the security or operation of the prison.
- (5) In subsection (4)—
- “personal record” means any record which is required by prison rules to be prepared and maintained in relation to any prisoner (and it is immaterial whether or not the individual concerned is still a prisoner at the time of any alleged offence);
- “relevant individual” means an individual who is or has at any time been—
- (a) a prisoner or a person working at the prison; or
  - (b) a member of such a person's family or household.
- (6) In section 40D and this section—
- “document” means anything in which information is recorded (by whatever means);
- “electronic communications” has the same meaning as in the Electronic Communications Act 2000 (c. 7);
- “photograph” means a recording on any medium on which an image is produced or from which an image (including a moving image) may by any means be produced; and
- “sound-recording” means a recording of sounds on any medium from which the sounds may by any means be reproduced.

#### Textual Amendments

**F8** Ss. 40D, 40E inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), [ss. 23\(1\)](#), [41\(1\)](#); S.I. [2008/504](#), [art. 3\(i\)](#)

#### **Offences under sections 40B to 40D: extension of Crown immunity**

**F13**  
**40F**

- (1) An individual who—
- (a) works at a prison;
  - (b) does not do that work as a servant or agent of the Crown; and
  - (c) has been designated by the Secretary of State for the purposes of this section,
- shall be treated for the purposes of the application of sections 40B to 40D as if he were doing that work as a servant or agent of the Crown.
- (2) A designation for the purposes of this section may be given—
- (a) in relation to persons specified in the designation or persons of a description so specified; and
  - (b) in relation to all work falling within subsection (1)(a) or only in relation to such activities as the designation may provide.]



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**Textual Amendments**

- F8** Ss. 40D, 40E inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 23(1)**, 41(1); S.I. 2008/504, art. 3(i)
- F13** S. 40F inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 24**, 41(1); S.I. 2008/504, art. 3(j)

**<sup>F14</sup>41 Unlawful introduction of other articles.**

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**Textual Amendments**

- F8** Ss. 40D, 40E inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 23(1)**, 41(1); S.I. 2008/504, art. 3(i)
- F14** S. 41 repealed (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 23(2)**, 41(1), **Sch. 5 Pt. 2**; S.I. 2008/504, art. 3(i)(o)

**42 Display of notice of penalties.**

The Prison Commissioners shall cause to be fixed in a conspicuous place outside every prison a notice of the penalties to which persons committing offences under [<sup>F15</sup>sections 39 to 40D] are liable.]

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**Textual Amendments**

- F8** Ss. 40D, 40E inserted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 23(1)**, 41(1); S.I. 2008/504, art. 3(i)
- F15** Words in s. 42 substituted (1.4.2008) by [Offender Management Act 2007 \(c. 21\)](#), **ss. 23(3)**, 41(1); S.I. 2008/504, art. 3(i)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 47(1A) inserted by [2012 c. 10 s. 129\(2\)](#)
- s. 47(1A) modified (temp.) by [2012 c. 10 s. 129\(10\)](#)
- s. 47(1A) modified (temp.) by [2012 c. 10 s. 129\(11\)\(a\)](#)
- s. 47(1A)(a) words inserted by [2015 c. 2 Sch. 9 para. 3\(3\)](#)
- s. 47(6) inserted by [2012 c. 10 s. 129\(3\)](#)
- s. 47A inserted by [2012 c. 10 s. 129\(4\)](#)
- s. 47A modified (temp.) by [2012 c. 10 s. 129\(11\)\(b\)](#)
- s. 55(4A) repealed by [2006 c. 13 s. 46\(2\)\(a\)Sch. 3](#)