



# Prison Act 1952

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

## *Offences*

### [<sup>F1</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;
  - (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>F2</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**

- F1** 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)

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**Changes to legislation:** Prison Act 1952, Section 40CA is up to date with all changes known to be in force on or before 19 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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**F2** 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

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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](#)