



# Prison Act 1952

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

## *Offences*

### [<sup>F1</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>F2</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>F3</sup>(b) .....is guilty of an offence.

[ A person who, without authorisation, is in possession of any of the items specified in <sup>F4</sup>(3A) subsection (3B) inside a prison is guilty of an offence.]

[ The items referred to in subsection (3A) are—  
<sup>F4</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—

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**Changes to legislation:** Prison Act 1952, Section 40D is up to date with all changes known to be in force on or before 17 May 2024. 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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- (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—
- (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>F5</sup>the general limit in a magistrates' court] or to a fine not exceeding the statutory maximum (or both).]

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#### Textual Amendments

- F1** 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)
- F2** 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
- F3** 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
- F4** 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
- F5** 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

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

- C1** 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)

**Changes to legislation:**

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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](#)