



# Offensive Weapons Act 2019

## 2019 CHAPTER 17

### PART 4

#### POSSESSION ETC OF CERTAIN OFFENSIVE WEAPONS

#### **46 Prohibition on the possession of offensive weapons**

(1) Section 141 of the Criminal Justice Act 1988 (offensive weapons) is amended in accordance with subsections (2) to (16).

(2) After subsection (1) insert—

“(1A) Any person who possesses a weapon to which this section applies in private is guilty of an offence and 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, to imprisonment for a term not exceeding 6 months, to a fine not exceeding level 5 on the standard scale or to both;
- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;
- (d) on conviction on indictment in Northern Ireland, to imprisonment for a term not exceeding 4 years, to a fine or to both.

(1B) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003, subsection (1A)(a) has effect as if the reference to 51 weeks were to 6 months.

(1C) For the purposes of subsection (1A) as it has effect in relation to England and Wales, a person possesses a weapon to which this section applies in private if the person possesses the weapon in a place other than—

- (a) a public place,
- (b) school premises,

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*Status: This is the original version (as it was originally enacted).*

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- (c) further education premises, or
- (d) a prison.

(1D) For the purposes of subsection (1A) as it has effect in relation to Scotland, a person possesses a weapon to which this section applies in private if the person possesses the weapon on domestic premises.

(1E) For the purposes of subsection (1A) as it has effect in relation to Northern Ireland, a person possesses a weapon to which this section applies in private if the person possesses the weapon in a place other than—

- (a) a public place,
- (b) school premises, or
- (c) further education premises.

(1F) In subsections (1C) to (1E)—

“domestic premises” means premises occupied as a private dwelling (including any stair, passage, garden, yard, garage, outhouse or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling);

“further education premises”, in relation to England and Wales, means land used solely for the purposes of—

- (a) an institution within the further education sector (within the meaning of section 91 of the Further and Higher Education Act 1992), or
- (b) a 16 to 19 Academy (within the meaning of section 1B of the Academies Act 2010),

excluding any land occupied solely as a dwelling by a person employed at the institution or the 16 to 19 Academy;

“further education premises”, in relation to Northern Ireland, means land used solely for the purposes of an institution of further education within the meaning of Article 2 of the Further Education (Northern Ireland) Order 1997 (SI 1997/1772 (NI 15)) excluding any land occupied solely as a dwelling by a person employed at the institution;

“prison” includes—

- (a) a young offender institution,
- (b) a secure training centre, and
- (c) a secure college;

“public place” includes any place to which, at the time in question, the public have or are permitted access, whether on payment or otherwise;

“school premises” means land used for the purposes of a school, excluding any land occupied solely as a dwelling by a person employed at the school; and “school” has the meaning given by—

- (a) in relation to land in England and Wales, section 4 of the Education Act 1996;
- (b) in relation to land in Northern Ireland, Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 (SI 1986/594 (NI 3)).”

(3) In subsection (5)(a), after “subsection (1)” insert “or (1A)”.

(4) After subsection (7) insert—

“(7A) It is a defence for a person charged with an offence under subsection (1A) to show that the weapon in question is one of historical importance.”

(5) After subsection (8) insert—

“(8A) It is a defence for a person charged with an offence under subsection (1A) to show that they possessed the weapon in question only in their capacity as the operator of, or as a person acting on behalf of, a museum or gallery.”

(6) In subsection (9), for “If a person acting on behalf of” substitute “If the operator of, or a person acting on behalf of,”.

(7) After subsection (11) insert—

“(11ZA) It is a defence for a person charged with an offence under subsection (1A) to show that they possessed the weapon in question for educational purposes only.”

(8) In subsection (11A)(a) (as inserted by the Violent Crime Reduction Act 2006), after “subsection (1)” insert “or (1A)”.

(9) After subsection (11A) (as inserted by the Violent Crime Reduction Act 2006) insert—

“(11AA) It is a defence for a person charged with an offence under subsection (1A) to show that they possessed the weapon in question only for one or more of the purposes specified in subsection (11B).”

(10) In subsection (11C) (as inserted by the Violent Crime Reduction Act 2006), for “(8), (9) or (11A)” substitute “(7A), (8), (8A), (9), (11ZA), (11A) or (11AA)”.

(11) In subsection (11D) (as inserted by the Violent Crime Reduction Act 2006), in paragraph (a), after “subsection (1)” insert “or (1A)”.

(12) In subsection (11A) (as inserted by the Custodial Sentences and Weapons (Scotland) Act 2007), after “subsection (1)” insert “or (1A)”.

(13) After subsection (11A) (as inserted by the Custodial Sentences and Weapons (Scotland) Act 2007) insert—

“(11AA) It is a defence for a person charged with an offence under subsection (1A) to show that the person possessed the weapon in question only for one or more of the purposes specified in subsection (11B).”

(14) In subsection (11F) (as inserted by the Custodial Sentences and Weapons (Scotland) Act 2007), for “(8), (9) or (11A)” substitute “(7A), (8), (8A), (9), (11ZA), (11A) or (11AA)”.

(15) After subsection (12) insert—

“(12A) An order under this section which has the effect that possession in private of a weapon of a particular description is, or is to become, an offence under subsection (1A) may make provision—

- (a) enabling arrangements to be made for the surrender of weapons of that description;

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- (b) as to the procedure to be followed in relation to the surrender of such weapons;
  - (c) for the payment of compensation in respect of weapons surrendered in accordance with the arrangements;
  - (d) as to the requirements that must be met by a person making a claim for compensation;
  - (e) as to the procedure to be followed in respect of a claim and for the determination of a claim;
  - (f) enabling a person to exercise a discretion in determining whether to make a payment in response to a claim and the amount of such a payment.”
- (16) In subsection (14)(a) after “subsection (1)” insert “or (1A)”.
- (17) In Article 29(1)(l) of the Magistrates’ Courts (Northern Ireland) Order 1981 (SI 1981/1675 (NI 26)) after “141(1)” insert “or (1A)”.
- (18) Subsection (19) applies if the subsections (11A) and (11B) which are inserted by section 60(1)(b) of the Custodial Sentences and Weapons (Scotland) Act 2007 into section 141 of the Criminal Justice Act 1988 are not in force when subsection (2) comes into force in relation to Scotland.
- (19) Until the coming into force of those subsections (11A) and (11B), section 141 has effect in relation to Scotland as if after subsection (11) there were inserted—
- “(11A) Where a person is charged with an offence under subsection (1A) in respect of conduct of the person relating to a weapon to which this section applies, it is a defence to show that the person’s conduct was for the purpose only of making the weapon in question available for one or more of the purposes specified in subsection (11B).
- (11AA) It is a defence for a person charged with an offence under subsection (1A) to show that the person possessed the weapon in question only for one or more of the purposes specified in subsection (11B).
- (11B) Those purposes are—
- (a) the purposes of theatrical performances and of rehearsals for such performances;
  - (b) the production of films (as defined in section 5B of the Copyright, Designs and Patents Act 1988);
  - (c) the production of television programmes (as defined in section 405(1) of the Communications Act 2003).”