



# Criminal Justice Act 1988

## 1988 CHAPTER 33

### PART XI

#### MISCELLANEOUS

##### *Articles with blades or points and offensive weapons*

#### **139 Offence of having article with blade or point in public place**

- (1) Subject to subsections (4) and (5) below, any person who has an article to which this section applies with him in a public place shall be guilty of an offence.
- (2) Subject to subsection (3) below, this section applies to any article which has a blade or is sharply pointed except a folding pocketknife.
- (3) This section applies to a folding pocketknife if the cutting edge of its blade exceeds 3 inches.
- (4) It shall be a defence for a person charged with an offence under this section to prove that he had good reason or lawful authority for having the article with him in a public place.
- (5) Without prejudice to the generality of subsection (4) above, it shall be a defence for a person charged with an offence under this section to prove that he had the article with him—
  - (a) for use at work;
  - (b) for religious reasons; or
  - (c) as part of any national costume.
- (6) A person guilty of an offence under subsection (1) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) In this section “public place” includes any place to which at the material time the public have or are permitted access, whether on payment or otherwise.

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*Status: This is the original version (as it was originally enacted).*

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- (8) This section shall not have effect in relation to anything done before it comes into force.

#### **140 Extension of constable’s power to stop and search**

- (1) In section 1 of the Police and Criminal Evidence Act 1984 (powers of constable to stop and search)—
- (a) the words “or any article to which subsection (8A) below applies” shall be inserted—
    - (i) in subsection (2)(a), after the word “articles”; and
    - (ii) at the end of subsection (3);
  - (b) in subsection (6), after the word “article”, in the second place where it occurs, there shall be inserted the words “or an article to which subsection (8A) below applies”; and
  - (c) the following subsection shall be inserted after subsection (8)—
 

“(8A) This subsection applies to any article in relation to which a person has committed, or is committing or is going to commit an offence under section 139 of the Criminal Justice Act 1988.”.
- (2) In section 5(2)(a)(ii) of that Act (annual reports to contain total numbers of searches for offensive weapons) after the word “weapons” there shall be inserted the words “or articles to which section 1(8A) above applies”.

#### **141 Offensive weapons**

- (1) Any person who manufactures, sells or hires or offers for sale or hire, exposes or has in his possession for the purpose of sale or hire, or lends or gives to any other person, a weapon to which this section applies shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or both.
- (2) The Secretary of State may by order made by statutory instrument direct that this section shall apply to any description of weapon specified in the order except—
  - (a) any weapon subject to the Firearms Act 1968; and
  - (b) crossbows.
- (3) A statutory instrument containing an order under this section shall not be made unless a draft of the instrument has been laid before Parliament and has been approved by a resolution of each House of Parliament.
- (4) The importation of a weapon to which this section applies is hereby prohibited.
- (5) It shall be a defence for any person charged in respect of any conduct of his relating to a weapon to which this section applies—
  - (a) with an offence under subsection (1) above; or
  - (b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979 (improper importation),

to prove that his conduct was only for the purposes of functions carried out on behalf of the Crown or of a visiting force.

- (6) In this section the reference to the Crown includes the Crown in right of Her Majesty's Government in Northern Ireland; and
- “visiting force” means any body, contingent or detachment of the forces of a country—
- (a) mentioned in subsection (1)(a) of section 1 of the Visiting Forces Act 1952; or
- (b) designated for the purposes of any provision of that Act by Order in Council under subsection (2) of that section,
- which is present in the United Kingdom (including United Kingdom territorial waters) or in any place to which subsection (7) below applies on the invitation of Her Majesty's Government in the United Kingdom.
- (7) This subsection applies to any place on, under or above an installation in a designated area within the meaning of section 1(7) of the Continental Shelf Act 1964 or any waters within 500 metres of such an installation.
- (8) It shall be a defence for any person charged in respect of any conduct of his relating to a weapon to which this section applies—
- (a) with an offence under subsection (1) above; or
- (b) with an offence under section 50(2) or (3) of the Customs and Excise Management Act 1979,
- to prove that the conduct in question was only for the purposes of making the weapon available to a museum or gallery to which this subsection applies.
- (9) If a person acting on behalf of a museum or gallery to which subsection (8) above applies is charged with hiring or lending a weapon to which this section applies, it shall be a defence for him to prove that he had reasonable grounds for believing that the person to whom he lent or hired it would use it only for cultural, artistic or educational purposes.
- (10) Subsection (8) above applies to a museum or gallery only if it does not distribute profits.
- (11) In this section “museum or gallery” includes any institution which has as its purpose, or one of its purposes, the preservation, display and interpretation of material of historical, artistic or scientific interest and gives the public access to it.
- (12) This section shall not have effect in relation to anything done before it comes into force.
- (13) In the application of this section to Northern Ireland the reference in subsection (2) above to the Firearms Act 1968 shall be construed as a reference to the Firearms (Northern Ireland) Order 1981.

#### **142 Power of justice of the peace to authorise entry and search of premises for offensive weapons**

- (1) If on an application made by a constable a justice of the peace (including, in Scotland, the sheriff) is satisfied that there are reasonable grounds for believing—
- (a) that there are on premises specified in the application—
- (i) knives such as are mentioned in section 1(1) of the Restriction of Offensive Weapons Act 1959; or

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- (ii) weapons to which section 141 above applies; and
  - (b) that an offence under section 1 of the Restriction of Offensive Weapons Act 1959 or section 141 above has been or is being committed in relation to them; and
  - (c) that any of the conditions specified in subsection (3) below applies,
- he may issue a warrant authorising a constable to enter and search the premises.
- (2) A constable may seize and retain anything for which a search has been authorised under subsection (1) above.
- (3) The conditions mentioned in subsection (1)(b) above are—
- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;
  - (b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the knives or weapons to which the application relates;
  - (c) that entry to the premises will not be granted unless a warrant is produced;
  - (d) that the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.
- (4) Subsection (1)(a)(i) shall be omitted in the application of this section to Northern Ireland.